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Washington, Saturday, November 6, 1948

TITLE 3—THE PRESIDENT

PROCLAMATION 2822

AMENDMENT OF REGULATIONS RELATING TO MIGRATORY BIRDS AND GAME MAMMALS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Acting Secretary of the Interior has adopted and has submitted to me for approval the following amendment of the regulations relating to migratory birds and game mammals included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and certain game mammals concluded February 7, 1936:

AMENDMENT OF MIGRATORY BIRD TREATY ACT REGULATIONS ADOPTED BY THE ACTING SECRETARY OF THE INTERIOR

By virtue of and pursuant to the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), and Reorganization Plan II (53 Stat. 1431), I, OSCAR L. CHAPMAN, Acting Secretary of the Interior, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of migratory birds designated in the Convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, have determined when, to what extent, and by what means it is compatible with the terms of the said Act and conventions to allow the hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, exportation, and importation of such birds and parts thereof, and in accordance with such determination, do hereby amend the regulations approved by Proclamation 2801 of July 29, 1948 (13 F. R. 4414), as amended by Proclamation 2821 of October 30, 1948 (13 F. R. 6465), by adding at the end of § 1.4 thereof the following:

"*Provided, however,* (1) that in the area of Minnesota in which hunting has been prohibited by State action by reason of emergency fire-hazard conditions, subject to all other provisions of this subchapter, the open season specified in this section for migratory waterfowl in that State is hereby extended for such area and for a period not to exceed the number of days during which hunting has been prohibited by State action but in no case beyond November 14, 1948; and (2) that whenever the Director of the Fish and Wildlife Service shall find that emergency State action to prevent forest fires has resulted in the shortening of the season during which the hunting of any migratory game bird is permitted in any extensive area and that a compensatory extension or reopening of the hunting season for such birds will not result in a diminution of the abundance of birds to any greater extent than that contemplated for the original hunting season, the hunting season for the birds so affected may, subject to all other provisions of this subchapter, be extended or reopened by the Director upon request of the chief officer of the agency of the State exercising administration over wildlife resources. The Director of the Fish and Wildlife Service shall fix the length of the extended or reopened season, which in no event shall exceed the number of days during which hunting has been so prohibited, and he shall publicly announce the extended or reopened season."

This amendment shall become effective upon its publication in the FEDERAL REGISTER as a part of the proclamation of the President by which the amendment is approved and proclaimed. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) with respect to notice and effective date is found to be contrary to the public interest because of the emergency conditions which the proposed amendment is designed to correct.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed, this 4th day of November, 1948.

[SEAL] OSCAR L. CHAPMAN,
Acting Secretary of the Interior.

(Continued on p. 6551)

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

AND WHEREAS upon consideration it appears that approval of the foregoing amendment will effectuate the purposes of the aforesaid Migratory Bird Treaty Act:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by section 3 of the said Migratory Bird Treaty Act of July 3, 1918, do hereby approve and proclaim the foregoing amendment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 5th day of November in the year of our Lord nineteen hundred and forty-eight, and of the Independence of the United States of America the one hundred and seventy-third.

[SEAL]

HARRY S. TRUMAN

By the President:

ROBERT A. LOVETT,
Acting Secretary of State.

[F. R. Doc. 48-9873; Filed, Nov. 5, 1948; 5:14 p. m.]

RULES AND REGULATIONS

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

[Lemon Reg. 298, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR, Cum. Supp., 953.1 et seq.; 13 F. R. 766), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rule-making procedure (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restrictions on the handling of lemons grown in the State of California or in the State of Arizona.

Order, as amended. The provisions in paragraph (b) (1) of § 953.405 (Lemon Regulation 298, 13 F. R. 6370), are hereby amended to read as follows:

(1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., October 31, 1948, and ending at 12:01 a. m., P. s. t., November 7, 1948, is hereby fixed as follows:

(i) District 1: 260 carloads;

(ii) District 2: Unlimited movement.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 4th day of November 1948.

[SEAL]

M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 48-9829; Filed, Nov. 5, 1948; 9:43 a. m.]

[Lemon Reg. 299]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.406 *Lemon Regulation 299*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR, Cum. Supp., 953.1 et seq.; 13 F. R. 766), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1946 ed. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., November 7, 1948 and ending at 12:01 a. m., P. s. t., November 14, 1948 is hereby fixed as follows:

(i) District 1: 245 carloads;

(ii) District 2: 5 carloads.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," and "District 2" shall have the same meaning as is given to each such term in the said amended marketing agreement and order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 4th day of November 1948.

[SEAL]

M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

DISTRICT NO. 1

Storage Date: October 31, 1948

[12:01 a. m. Nov. 7, 1948, to 12:01 a. m. Nov. 21, 1948]

Handler	*Prorate base (percent)*
Total	100.000
American Fruit Growers, Inc., Corona	.229
American Fruit Growers, Inc., Fullerton	.251
American Fruit Growers, Inc., Lindsay	.000
American Fruit Growers, Inc., Upland	.155
Hazeltine Packing Co	.396
Ventura Coastal Lemon Co	3.931
Ventura Pacific Co	2.108
Total A. F. G	7.070
Klink Citrus Association	.193
Lemon Cove Association	.008

PRORATE BASE SCHEDULE—Continued

DISTRICT NO. 1—continued

Handler	Prorate base (percent)
Glendora Lemon Growers Association	2.558
La Verne Lemon Association	.510
La Habra Citrus Association, The	1.451
Yorba Linda Citrus Association, The	.711
Alta Loma Heights Citrus Association	.602
Etiwanda Citrus Fruit Association	.179
Mountain View Fruit Association	.415
Old Baldy Citrus Association	.779
Upland Lemon Growers Association	5.181
Central Lemon Association	.690
Irvine Citrus Association, The	.307
Placentia Mutual Orange Association	.607
Corona Citrus Association	.198
Corona Foothill Lemon Co	1.691
Jameson Co	.556
Arlington Heights Citrus Co	.345
College Heights Orange and Lemon Association	3.415
Chula Vista Citrus Association, The	.869
El Cajon Valley Citrus Association	.062
Escondido Lemon Association	1.366
Fallbrook Citrus Association	1.158
Lemon Grove Citrus Association	.320
San Dimas Lemon Association	2.359
Carpinteria Lemon Association	3.946
Carpinteria Mutual Citrus Association	3.288
Goleta Lemon Association	4.160
Johnston Fruit Co	5.102
North Whittier Heights Citrus Association	.460
San Fernando Heights Lemon Association	.989
San Fernando Lemon Association	.124
Sierra Madre-Lamanda Citrus Association	1.433
Tulare County Lemon & Grapefruit Association	.067
Briggs Lemon Association	2.866
Culbertson Investment Co	1.357
Culbertson Lemon Association	1.389
Fillmore Lemon Association	1.107
Oxnard Citrus Association No. 1	8.598
Oxnard Citrus Association No. 2	.859
Ranch Sespe	.749
Santa Paula Citrus Fruit Association	2.924
Saticoy Lemon Association	5.746
Seaboard Lemon Association	4.409
Somis Lemon Association	4.288
Ventura Citrus Association	1.873
Limoneira Co	1.751
Teague-McKevett Association	.754
East Whittier Citrus Association	.278
Leffingwell Rancho Lemon Association	.578
Murphy Ranch Co	1.095
Whittier Citrus Association	.203
Whittier Select Citrus Association	.272
Total C. F. G. E.	87.195
Chula Vista Mutual Lemon Association	.680
Escondido Co-op. Citrus Association	.129
Index Mutual Association	.153
La Verne Co-op. Citrus Association	1.747
Orange Co-op. Citrus Association	.024
Ventura County Orange and Lemon Association	1.913
Whittier Mutual Orange and Lemon Association	.174
Total M. O. D.	4.820
California Citrus Groves, Inc., Ltd.	.000
Dunning, Wm. A	.000
El Rio Lemon Co	.031
Evans Bros. Packing Co	.000
Flint, Arthur E.	.000

PRORATE BASE SCHEDULE—Continued

DISTRICT NO. 1—continued

Handler	Prorate base (percent)
Harding & Leggett	0.170
Johnson, Fred	.000
Lorbeer, Carroll W. C	.068
MacDonald, Hugh J	.015
Orange Belt Fruit Distributors	.387
Reimers, Don H	.024
San Antonio Orchard Co	.123
Sentinel Butte Corp	.000
Zaninovich Bros., Inc	.097
Total independents	.915

DISTRICT NO. 2

Total	100.000
Consolidated Citrus Growers	12.003
Phoenix Citrus Packing Co	.000
Total A. F. G.	12.003
Arizona Citrus Growers	18.269
Desert Citrus Growers Co	12.811
Mesa Citrus Growers	4.946
Tempe Citrus Growers	2.094
Total C. F. G. E.	38.120
Leppla Henry Produce Co	16.867
Pioneer Fruit Co	9.613
Total M. O. D.	26.480
Morris Brothers	23.397
Total independents	23.397

[F. R. Doc. 48-9828; Filed, Nov. 5, 1948; 9:43 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

Subchapter B—Immigration Regulations

PART 110—PRIMARY INSPECTION AND DETENTION

PART 121—TREATY TRADERS

ALIENS COMING TO THE UNITED STATES AS TREATY TRADERS

OCTOBER 19, 1948.

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER dated August 21, 1948 (13 F. R. 4875), pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) and in which there were stated in full the terms of proposed rules (8 CFR, Parts 110 and 121) relating to aliens coming to the United States as treaty traders. Representations which have been received concerning the proposal have been considered.

The rules as stated in the said notice of proposed rule making are hereby adopted without change and shall become effective on the thirty-first day after their publication with this order in the FEDERAL REGISTER.

The basis for the issuance of these rules is a determination that it will be advantageous to the Government and to persons concerned to define fully the conditions under which treaty traders may enter, and remain temporarily in, the United States. The general purpose of these rules is to make available to interested persons a comprehensive statement of the requirements for temporary admission to the United States of treaty traders.

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
121.1 Definitions.
121.2 Time for which admitted.
121.3 Conditions of admission.
121.4 Extension of stay; period of time; conditions.
121.5 Arrest and deportation.
121.6 Effect of prior regulations.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

121.11 Authority to admit.
121.12 Extension of stay; procedure.
121.13 Investigation.

AUTHORITY: §§ 121.1 to 121.13 issued under sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37 (a), 54 Stat. 675, sec. 1, 54 Stat. 1238; 8 U. S. C. 102, 222, 458; 8 CFR 90.1. §§ 121.1 to 121.13 interpret and apply sec. 3 (6), 43 Stat. 154, 47 Stat. 607, secs. 14, 15, 43 Stat. 162, sec. 23, 43 Stat. 165, sec. 35, 54 Stat. 675; 8 U. S. C. 203, 214, 215, 221, 456.

CROSS REFERENCE: For consular procedure with respect to traders, see 22 CFR Part 61, particularly §§ 61.140–61.144.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 121.1 *Definitions.* As used in this part, the term:

(a) "Trader" means an alien who is admitted to the United States under the provisions of section 3 (6) of the Immigration Act of 1924, as amended, solely to carry on trade, in his own behalf or as an agent of a foreign firm or corporation engaged in trade, which is principally between the United States and the foreign state of which he is a citizen or subject under and in pursuance of an existing treaty of commerce and navigation between the United States and the country of which he is a citizen or subject.

(b) "Dependent" means the alien wife of a trader or his alien unmarried child under 21 years of age, who is admitted to the United States under the provisions of the said section 3 (6) and who is accompanying the trader to the United States or is following to join him in the United States. A dependent need not be of the same nationality as the trader whose dependent he is.

(c) "District director" includes officers and employees who are under the supervision of the district director and whom he may direct to assist him in performing his duties and exercising his authority under this part.

§ 121.2 *Time for which admitted.* The time for which a trader or dependent may be admitted to the United States shall be fixed by date and shall be whatever period is appropriate to accomplish the purpose of his temporary stay in the United States: *Provided:*

(a) That the period shall not in any case exceed one year; and

(b) That the period shall not extend beyond the date 60 days prior to the end of the period during which the trader or dependent will be eligible for

readmission to the country whence he came or for admission to some other foreign country; and

(c) That the period shall be deemed not to exceed the time during which the trader or dependent continues to fulfill all of the conditions of admission prescribed in § 121.3.

§ 121.3 *Conditions of admission.* The conditions under which an alien may be admitted to the United States as a trader or dependent shall be that he:

(a) Agrees that while in the United States he will not pursue any business or employment inconsistent with or unnecessary to the carrying on of business as a trader not specifically authorized by immigration officials.

(b) Agrees to leave the United States within the period of his admission or any authorized extension thereof and establishes that he has the ability to leave.

(c) Establishes that he is not subject to exclusion from the United States under any of the applicable provisions of the immigration laws or regulations. (A trader shall not be subject to the contract labor provisions of section 3 of the Immigration Act of 1917 (39 Stat. 875; 8 U. S. C. 136 (h)).)

(d) Presents whatever document or documents are required by the applicable Executive order or orders, or by Part 176 of this chapter or any other applicable regulations prescribing the documents to be presented by aliens entering the United States as traders or dependents, such document or documents to include, where required, evidence of compliance with all applicable provisions of Title III of the Alien Registration Act, 1940 (54 Stat. 673; 8 U. S. C. 451), relating to registration and fingerprinting. Where a passport is required, it must be valid for at least 60 days longer than the period of admission, as prescribed in § 176.500 of this chapter.

(e) Furnishes bond on Form I–338 or Form 638 in a sum of not less than $500 to insure that he will depart from the United States at the expiration of his specific period of authorized stay or upon failure to comply with the conditions under which admitted, whichever occurs first, if such bond is required by an officer in charge or by a board of special inquiry or pursuant to an order entered on appeal from the decision of such board.

(f) Agrees that if he does not depart from the United States within three months after admission he will report his address to the Commissioner and will make similar reports at the expiration of each following three months' period for as long as he remains in the United States, such reports to be made by filing out and mailing post card Form AR–11, which is obtainable without cost at United States immigration offices and post offices. In the cases of children, such reports shall be made by parents or guardians in accordance with the applicable provisions of Title III of the Alien Registration Act, 1940.

§ 121.4 *Extension of stay; period of time; conditions.* After an alien is admitted to the United States as a trader or dependent, he may upon proper showing be granted an extension or extensions of the period of his admission, subject to all of the following conditions:

(a) All extensions shall be subject to the same time limitations as are placed on original admissions by § 121.2; and

(b) The alien shall establish that he has fulfilled, and agree that he will continue to fulfill, all applicable conditions of admission prescribed by § 121.3; and

(c) The district director having jurisdiction may in his discretion require, as a condition precedent to the granting of an extension, the trader or dependent to furnish bond or to continue to furnish bond or to furnish bond in greater sum, on the form and containing the conditions stated in § 121.3 (e).

CROSS REFERENCE: For procedure for extensions of stay, including authority to make decisions on applications therefor, see § 121.12.

§ 121.5 *Arrest and deportation.* (a) An alien admitted as a trader or dependent shall be deemed to have remained in the United States for a longer time than permitted under law and regulations within the meaning of section 14 of the Immigration Act of 1924 if:

(1) He remains in the United States after the expiration of the time for which he was temporarily admitted or the expiration of any authorized extension of such period; or

(2) He violates, or fails or ceases to fulfill, any of the other conditions of his admission to or extended stay in the United States.

(b) Paragraph (a) of this section shall include, but not be limited to, cases:

(1) In which the treaty on which the admission was based is terminated.

(2) In which any dependent who is not a trader in his or her own right remains in the United States after the trader father or husband has remained in the United States for a longer time than permitted under this part.

(3) In which the dependent is a wife who is not a trader in her own right and her marriage to her trader husband is terminated by his death or by divorce.

(4) In which the dependent is a child who is not a trader in his own right and he becomes married or reaches or passes the age of 21 years.

(c) An alien admitted as a trader or as a dependent shall be subject to being taken into custody and made the subject of further proceedings under Part 150, Arrest and Deportation, of this chapter if:

(1) He remains in the United States for a longer time than permitted, as defined in paragraphs (a) and (b) of this section; or

(2) He is found to have been at the time of his entry as a trader or dependent not entitled under the Immigration Act of 1924 to enter the United States under such status.

(d) Notwithstanding the provisions of paragraph (c) of this section, any alien who is subject to being taken into custody under that paragraph but who is about to depart from the United States may, in the discretion of the district director having jurisdiction, be permitted to proceed from the United States.

§ 121.6 *Effect of prior regulations.* (a) The provisions of this part shall supersede the provisions of §§ 110.27, 110.28, and 110.29 of this chapter insofar as they relate to aliens who enter or apply to enter the United States as traders or dependents after this part becomes effective. Section 110.34 of this chapter is revoked.

(b) The provisions of this part shall not be applied in the cases of aliens who are in the United States in the status of traders or dependents at the time this part becomes effective. Regulations in effect at the time of the admission of such aliens shall continue to be applicable to their cases.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 121.11 *Authority to admit.* If the examining immigrant inspector is satisfied beyond a doubt that an alien is admissible as a trader or dependent, he may admit him as such. If the examining immigrant inspector is satisfied that an alien would be admissible as a trader or dependent provided a bond should be furnished in accordance with the provisions of § 121.3 (e), the examining immigrant inspector may refer the case to the officer in charge of the port. If the officer in charge concludes that the alien would be admissible provided such bond should be furnished, the officer in charge may admit the alien as a trader or dependent upon the furnishing of such bond. If the examining immigrant inspector—or the officer in charge, in any bond case referred to him—is not satisfied that the alien applying for admission to the United States as a trader or dependent is admissible, he shall hold the alien for examination, and for decision in the case, by a board of special inquiry. The bond prescribed in § 121.3 (e) may be exacted by the board of special inquiry as a condition of admission.

§ 121.12 *Extension of stay; procedure.* (a) A trader or dependent may apply for an extension of the period of his temporary admission. Such application shall be submitted on Form I–539 approximately 30 days before the expiration of the period of admission or previously authorized extension thereof, to the district director of the district in which the applicant is engaged in trade or staying at the time the application is submitted. All available data specified in Form I–539 shall be furnished by the applicant. The application shall be accompanied by the applicant's passport, by any visitor's permit (Form 257a or I–94) issued to him, and, if a departure bond is outstanding in his case, by the consent of the obligors on the bond agreeing to the proposed extension of stay.

(b) After making such inquiry as may be necessary, the district director shall make a decision on the application and such decision shall be final, (1) except that the Commissioner may from time to time require certain classes of cases or individual cases to be submitted to him for review or for decision; and (2) except that, if the applicant has gone to another district and further information from him is needed, the district director may send the application to the other district for final action. The district director shall send to the applicant written

notice of the decision, accompanied by any passport and Form 257a or I-94 submitted with the application. If one of those forms was submitted with the application and if the application is granted, such notice may be given by placing on the form a signed endorsement, which shall include the date through which the stay is extended. If the application is denied, the district director making the decision shall take appropriate action with a view to enforcing the alien's departure or removal from the United States, and the notice to the alien of the denial shall include advice as to such intended action.

(c) As soon as the district director notifies a trader or dependent of the decision on an application for extension of stay, the district director shall notify the officer in charge at the port where the trader or dependent was admitted of the terms of the decision.

(d) If the period of admission of a trader or dependent or any authorized extension of that period expires and the officer in charge at the port of entry has not received a notice under paragraph (c) of this section or under § 121.13 (b) or has not ascertained and cannot ascertain that the trader or dependent has departed from the United States, such officer shall report the facts to the district director of the district in which the alien is believed to be engaged in trade or staying or shall take any other action necessary to insure that the trader or dependent either departs or is removed from the United States.

§ 121.13 *Investigation.* (a) The district director of the district in which traders or dependents are engaged in trade or are staying shall investigate their cases to ascertain whether they are complying with the conditions of their admission.

(b) Any action which is taken in a district other than the one where the admission occurred and which has for its purpose the effecting of the departure or the removal of the alien from the United States shall be promptly reported to the officer in charge of the port where the alien was admitted.

JOHN P. BOYD,
Acting Commissioner of Immigration and Naturalization.

Approved: October 30, 1948.

TOM C. CLARK,
Attorney General.

[F. R. Doc. 48-9743; Filed, Nov. 5, 1948; 8:59 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Reg., Amdt. 41-2]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF THE UNITED STATES

EXTENSION OF TERMINATION DATE OF ALASKAN AIR CARRIER OPERATING CERTIFICATES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 29th day of October 1948.

The provisions of § 41.000, which authorize the Administrator to deviate from any specific requirement of Part 41 for a particular operation or class of operations within the Territory of Alaska, expire October 31, 1948.

Considerable study has been given to alleviating scheduled air carrier operational problems for those operations conducted wholly within the Territory of Alaska. The Board has considered promulgating a new part of the Civil Air Regulations solely for such operations. It has also considered authorizing such operations to be conducted under the provisions of Part 42, in view of the fact that many certificated air carrier operations wholly within Alaska are of an irregular nature, and the conditions under which these operations are carried on are such that the carriers cannot comply with all of the requirements of Part 41.

Acting under the provisions of § 41.000, with the concurrence of the Board, the Administrator has authorized the air carriers presently unable to comply fully with the requirements of Part 41 to conduct their operations under standards of safety comparable to those now required of carriers operating under present Part 42. In view of this fact, until such time as new requirements for irregular air carriers are promulgated, the Board believes that an indefinite extension of the authority contained in § 41.000 will result in a level of safety suitable for these operations.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matters presented. Since this amendment imposes no additional burden on any person, it may be made effective without prior notice.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 41 of the Civil Air Regulations (14 CFR, Part 41, as amended) effective November 1, 1948:

By amending § 41.000 by striking the last sentence thereof, to wit:

All certificates issued under the authority of this section shall terminate not later than October 31, 1948.

(Sec. 205 (a), 52 Stat. 984; 49 U. S. C. 425 (a))

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 48-9750; Filed, Nov. 5, 1948; 9:00 a. m.]

TITLE 15—COMMERCE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

[3d. Gen. Rev. of Export Regs., Amdt. 15]

PART 372—GENERAL LICENSES

SHIPMENTS OF LIMITED VALUE AND RETURN OF COMMODITIES

Part 372, "General Licenses", is amended in the following particulars:

1. Section 372.10 *Shipments of limited value "GLV"* is amended by adding to paragraph (b) (1) a new unnumbered subparagraph to read as follows:

When shipment is being made against a validated license, shipment of the same commodity by the same exporter to the same importer may not be made under general license GLV on the same exporting carrier.

This part of the amendment shall become effective as of September 22, 1948.

2. Section 372.20 *Return of certain commodities imported into the United States "GLR"* is amended by adding thereto a new paragraph (e) to read as follows:

(e) Commodities on which customs duties were paid upon importation into the United States and which upon exportation in accordance with the provisions of section 313 of the Tariff Act of 1930, as amended,[1] entitle the exporter to the drawback of customs duties paid, may be exported to the country from which imported: *Provided*, Such commodities do not conform to sample or specifications and are in the same condition in which imported.

This part of the amendment shall become effective as of August 25, 1948.

(Sec. 6, 54 Stat. 714, 55 Stat. 206, 56 Stat. 463, 58 Stat. 671, 59 Stat. 270, 60 Stat. 215, 61 Stat. 214, 61 Stat. 321; Pub. Law 395, 80th Cong.; 50 U. S. C. App. and Sup. 701, 702; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: November 1, 1948.

FRANCIS MCINTYRE,
Assistant Director, Office of International Trade.

[F. R. Doc. 48-9740; Filed, Nov. 5, 1948; 8:59 a. m.]

[3d Gen. Rev. of Export Regs., Amdt. P. L. 8]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

RAW HIDES AND SKINS, EXCEPT FURS

Section 399.1 *Appendix A—Positive List of Commodities* is amended by adding to the Positive List the following commodities:

[1] 46 Stat. 694, 19 U. S. C. 1313. "Upon the exportation of merchandise not conforming to sample or specifications upon which duties have been paid and which have been entered or withdrawn for consumption and, within thirty days after release from customs custody, returned to customs custody for exportation, the full amount of the duties paid upon such merchandise shall be refunded as drawback, less one per centum of such duties."

Dept. of Comm. Sched. B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar value limits
	Hides and skins, raw, except furs:			
020602	Calf skins, dry	Piece	LEAT 1	100
020604	Calf skins, wet (include slunk skins)	do	LEAT 1	100
020702	Kip skins, dry	do	LEAT 1	100
020704	Kip skins, wet	do	LEAT 1	100

Shipments of any of the above commodities removed from general license which were on dock, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to an actual order for export prior to the effective date of this amendment may be exported under the previous general license provisions.

(Sec. 6, 54 Stat. 714, 55 Stat. 206, 56 Stat. 463, 58 Stat. 671, 59 Stat. 270, 60 Stat. 215, 61 Stat. 214, 61 Stat. 321; Pub. Law 395, [illegible]th Cong.; 50 U. S. C. App. and Sup. 701, 702; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

This amendment shall become effective November 5, 1948.

Dated: October 29, 1948.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 48-9738; Filed, Nov. 5, 1948; 8:59 a. m.]

[3d Gen. Rev. of Export Regs., Amdt. P. L. 9]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

STEEL MILL PRODUCTS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

The entry on the Positive List for concrete reinforcement bars, Schedule B No. 602200, is amended by revising the commodity description so that the entry reads as follows:

Dept. of Comm. Sched. B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar value limits
602200	Steel mill products: Concrete reinforcement bars (deformed and twisted bars only) (report smooth carbon hot-rolled bars and rods to be used for reinforcing concrete under Schedule B Nos. 602100 and 602300).	Lb	STEE	100

(Sec. 6, 54 Stat. 714, 55 Stat. 206, 56 Stat. 463, 58 Stat. 671, 59 Stat. 270, 60 Stat. 215, 61 Stat. 214, 61 Stat. 321; Pub. Law 395, 80th Cong.; 50 U. S. C. App. and Sup. 701, 702; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

This amendment shall become effective November 12, 1948.

Dated: October 29, 1948.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 48-9739; Filed, Nov. 5, 1948; 8:59 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

PART 2—ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

EXEMPTION OF NEW DRUGS FOR INVESTIGATIONAL USE

Upon notice of proposed rule making given by the Federal Security Administrator in the FEDERAL REGISTER on July 14, 1948 (13 F. R. 3972), and after consideration of all written comments submitted by interested parties in accordance with said notice, it is, by virtue of the authority vested in the Federal Security Administrator by the provisions of section 505 (i) of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1052; 21 U. S. C. 355 (i)): *It is ordered,* That the regulations (21 CFR, Cum. Supp., 2.114) exempting certain new drugs intended solely for investigational use from the provisions of section 505 (a) of the Federal Food, Drug, and Cosmetic Act (21 U. S. C. 355 (a)) be amended to read as follows:

§ 2.114 *New drugs; exemptions from section 505 (a).* (a) Except as provided by paragraph (b) of this section a shipment or other delivery of a new drug shall be exempt from the operation of section 505 (a) of the act if all of the following conditions are complied with:

(1) The label of such drugs bears the statement "Caution: New drug—Limited by Federal law to investigational use."

(2) Such shipment or delivery is made only to, and solely for investigational use by or under the direction of, an expert qualified by scientific training and experience to investigate the safety of such drug.

(3) The person who introduced such shipment or delivery into interstate commerce obtains, prior to the introduction, a statement signed by such expert showing that he has adequate facilities for the investigation to be conducted by him, and that such drug will be used solely by him or under his direction for the investigation, unless and until an application becomes effective with respect to such drug under section 505 of the act. This subparagraph shall not apply when such shipment or delivery is made to an agency of the Government of the United States (including the National Research Council), or of any State or municipality, whose official functions involve investigations of new drugs by such experts.

(4) Such person keeps the statement referred to in subparagraph (3) of this paragraph, and complete records showing the date, quantity, and batch or code mark (if any), of each such shipment and delivery.

(5) Such person makes all records and statements referred to in subparagraphs (3) and (4) of this paragraph available for inspection upon the request of any officer or employee of the Agency at any reasonable hour until 3 years after the introduction of such shipment or delivery into interstate commerce.

(b) A shipment or other delivery of a new drug which is being imported or offered for import into the United States shall be exempt from the operation of section 505 (a) of the act if all of the following conditions are complied with:

(1) The label of such drug bears the statement "Caution: New Drug—Limited by United States law to investigational use."

(2) The importer of all such shipments or deliveries is an agent of the foreign exporter, residing in the United States, or the operator of an establishment in the United States which has facilities for regularly investigating the safety of such drugs, which facilities are manned by experts qualified by scientific training and experience to conduct such investigation.

(3) Such operator uses such drug solely for such investigation in such establishment, or such operator or agent otherwise disposes of such drug only to, and solely for investigational use by or under the direction of, such an expert other than one in such establishment.

(4) Such importer, prior to disposing of any of such drug to such an expert, obtains a statement signed by such expert showing that he has adequate facilities for the investigation to be conducted by him, and that such drug will be used solely by him or under his direction for the investigation, unless and until an application becomes effective with respect to such drug under section 505 of the act. This subparagraph shall not apply to any shipment or delivery or part thereof disposed of by such importer to an agency of the Government of the United States (including the National Research Council) or of any State or municipality whose official functions involve investigations of new drugs by such experts.

(5) Such importer keeps the statement referred to in subparagraph (4) of this paragraph and complete records showing the date, quantity, and batch or code marks (if any), of each such shipment and delivery and the disposition thereof.

(6) Such importer makes all statements and records referred to in subparagraphs (4) and (5) of this paragraph available for inspection upon the request of any officer or employee of the Agency at any reasonable hour until 3

years after disposition by such importer of the lot of such drug to which such statement and records relate.

(c) An exemption under paragraph (a) or (b) of this section shall become void ab initio if any record or statement required by such paragraph to be kept and made available for inspection is not kept or made available as so required.

(d) An exemption under paragraph (a) or (b) of this section shall expire with respect to any exempted shipment or delivery or part thereof which has been supplied to an expert who has signed the statement referred to in paragraph (a) (3) or (b) (4), of this section and which is used otherwise than in accordance with such signed statement.

(e) An exemption under paragraph (b) of this section shall become void ab initio if the exempted shipment or delivery or any part thereof is disposed of otherwise than as provided by subparagraph (3) of such paragraph.

(f) No exemption under paragraph (b) of this section shall apply to any shipment or delivery to such importer if such importer, within 3 years prior to the offering of such shipment or delivery for import, has caused an exemption to become void as provided by paragraph (c) or (e) of this section. (52 Stat. 1052; 21 U. S. C. 355 (i))

This order shall become effective 30 days after publication in the FEDERAL REGISTER.

Dated: October 29, 1948.

[SEAL] J. DONALD KINGSLEY,
Acting Administrator.

[F. R. Doc. 48-9733; Filed, Nov. 5, 1948; 8:47 a. m.]

TITLE 24—HOUSING CREDIT

Chapter VIII—Office of the Housing Expediter

[Controlled Housing Rent Reg.[1] Amdt. 48]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. Schedule B is amended by incorporating item 35 as follows:

35. Provisions relating to a portion of the Longview Defense-Rental Area, State of Texas.

Decontrol based upon the recommendation of the Local Advisory Board. The application of the Controlled Housing Rent Regulation is terminated in that portion of the Longview, Texas, Defense-Rental Area which consists of the campus grounds of the LeTourneau Technical Institute and which is more particularly described as follows:

Beginning at a point on the East right-of-way line of Mobberly Avenue, also being State Highway No. 149, said point being a corner of tracts 1 & 2 of the Holloway Sub-Division; thence, North 89 degrees 50 minutes East 1750' to a 12" black jack marked "X" on South and West. The 16" east prong of a twin hackberry marked "X" on the East bears West 8.3"; thence, North 89 degrees 41 minutes East 711.1' to a 3" iron pipe for corner. Thence, due South 2,137' to a 3" iron pipe, said pipe being the southeast corner of land acquired by deed from Gregg County, Texas; thence, continuing South 640.7' to the most southeasterly corner of the tract here conveyed; thence, due West 717.7' to a point; thence, North 86 degrees 45 minutes West 1587.9' to a stake for corner in the East right-of-way line of old State Highway No. 149; thence, North 1 degree 53 minutes East 500.8' to a 2" iron pipe at the south southwest corner of the Holloway Estate tract of land; thence, North 34 degrees 45 minutes West 60.82' to a 2" iron pipe, being the south southwest corner of the tract acquired by deed from Gregg County, Texas; thence North 43 degrees 16 minutes West 487.5' to a concrete right-of-way monument on the East right-of-way of new State Highway No. 149; thence, North 16 degrees 59 minutes West 48.9' to a corner on the East right-of-way of new State Highway 149 thence North 7 degrees 5 minutes West 1618' to a stake on the East right-of-way line of new State Highway No. 149; thence, North 4 degrees 28 minutes East 128.7' to place of beginning containing 156.22 acres more or less, bounded on the North by the City of Longview city limits, same being contiguous to Espy Park and Lawrence Addition to the City of Longview; on the east by the Lawrence Estate, on the south by the lands of Holloway and old State Highway 149, and on the West by Mobberly Avenue.

2. Schedule A, item 321b, is amended to describe the counties in the Defense-Rental Area as follows:

Gregg, except that portion thereof which consists of the campus grounds of the LeTourneau Technical Institute and which is more particularly described as follows:

Beginning at a point on the East right-of-way line of Mobberly Avenue, also being State Highway No. 149, said point being a corner of tracts 1 & 2 of the Holloway Sub-Division; thence, North 89 degrees 50 minutes East 1750' to a 12" black jack marked "X" on South and West. The 16" east prong of a twin hackberry marked "X" on the East bears West 8.3"; thence, North 89 degrees 41 minutes East 711.1' to a 3" iron pipe for corner. Thence, due South 2,137' to a 3" iron pipe, said pipe being the southeast corner of land acquired by deed from Gregg County, Texas; thence continuing South 640.7' to the most southeasterly corner of the tract here conveyed; thence, due West 717.7' to a point; thence, North 86 degrees 45 minutes West 1,587.9' to a stake for corner in the East right-of-way line of old State Highway No. 149; thence, North 1 degree 53 minutes East 500.8' to a 2" iron pipe at the south southwest corner of the Holloway Estate tract of land; thence, North 34 degrees 45 minutes West 60.82' to a 2" iron pipe, being the south, southwest corner of the tract acquired by deed from Gregg County, Texas; thence, North 43 degrees 16 minutes West 487.5' to a concrete right-of-way monument on the East right of way of new State Highway No. 149; thence, North 16 degrees 59 minutes West 48.9' to a corner on the East right of way of new State Highway 149 thence North 7 degrees 5 minutes West 1,618' to a stake on the East right-of-way line of new State Highway No. 149; thence, North 4 degrees 28 minutes East 128.7' to place of beginning containing 156.22 acres more or less, bounded on the North by the City of Longview city limits, same being contiguous to Espy Park and Lawrence Addition to the City of Longview; on the east by the Lawrence Estate, on the south by the lands of Holloway and old State Highway 149, and on the West by Mobberly Avenue.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (d). Applies sec. 204 (e), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (e))

This amendment shall become effective November 6, 1948.

Issued this 3d day of November 1948.

TIGHE E. WOODS,
Housing Expediter.

Statement To Accompany Amendment 48 to the Controlled Housing Rent Regulation

The Local Advisory Board for Gregg County, Texas, which constitutes the Longview Defense-Rental Area, State of Texas, has, in accordance with section 204 (e) (1) (A) of the Housing and Rent Act of 1947, as amended, recommended the decontrol of that portion of said Defense-Rental Area which consists of the campus grounds of the LeTourneau Technical Institute.

Upon consideration of the evidence submitted in support of the recommendation and other evidence in the files of the Housing Expediter, the Housing Expediter has found that the recommendation is appropriately substantiated and in accordance with applicable law and regulations. The Housing Expediter is, therefore, issuing this amendment to effectuate the recommendation.

[F. R. Doc. 48-9737; Filed, Nov. 5, 1948; 8:47 a. m.]

[Rent Reg. for Controlled Rooms in Rooming Houses and Other Establishments,[1] Amdt. 48]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respects:

1. Schedule B is amended by incorporating item 36 as follows:

36. Provisions relating to a portion of the Longview Defense-Rental Area, State of Texas.

Decontrol based upon the recommendation of the Local Advisory Board. The application of the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments is terminated in that portion of the Longview, Texas, Defense-Rental Area which consists of the campus grounds of the LeTourneau Technical Institute and which is more particularly described as follows:

Beginning at a point on the East right-of-way line of Mobberly Avenue, also being State Highway No. 149, said point being a corner of tracts 1 and 2 of the Holloway Sub-Division: thence North 89 degrees 50 minutes East 1750' to a 12" black jack marked "X" on South and West. The 16" east prong of a twin hackberry marked "X" on the East bears West 8.3": thence, North 89 degrees 41

[1] 13 F. R. 5706, 5788, 5783, 5937, 6246, 6283, 6411.

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411.

minutes East 711.1' to a 3" iron pipe for corner. Thence, due South 2,137' to a 3" iron pipe, said pipe being the southeast corner of land acquired by deed from Gregg County, Texas; thence, continuing South 640.7' to the most southeasterly corner of the tract here conveyed; thence, due West 717.7' to a point; thence, North 86 degrees 45 minutes West 1587.9' to a stake for corner in the East right-of-way line of old State Highway No. 149; thence, North 1 degree 53 minutes East 500.8' to a 2" iron pipe at the south southwest corner of the Holloway Estate tract of land; thence, North 34 degrees 45 minutes West 60.82' to a 2" iron pipe, being the south southwest corner of the tract acquired by deed from Gregg County, Texas; thence, North 43 degrees 16 minutes West 487.5' to a concrete right-of-way monument on the East right of way of new State highway No. 149; thence, North 16 degrees 59 minutes West 48.9' to a corner on the East right of way of new State Highway 149, thence North 7 degrees 5 minutes West 1618' to a stake on the East right-of-way line of new State Highway No. 149; thence, North 4 degrees 28 minutes East 128.7' to place of beginning containing 156.22 acres more or less, bounded on the North by the City of Longview city limits, same being contiguous to Espy Park and Lawrence Addition to the City of Longview; on the east by the Lawrence Estate, on the south by the lands of Holloway and old State Highway 149, and on the West by Mobberly Avenue.

2. Schedule A, item 321b, is amended to describe the counties in the Defense-Rental Area as follows:

Gregg, except that portion thereof which consists of the campus grounds of the LeTourneau Technical Institute and which is more particularly described as follows:

Beginning at a point on the East right-of-way line of Mobberly Avenue, also being State Highway No. 149, said point being a corner of tracts 1 & 2 of the Holloway Sub-Division; thence, North 89 degrees 50 minutes East 1750' to a 12" black jack marked "X" on South and West. The 16" east prong of a twin hackberry marked "X" on the East bears West 8.3"; thence, North 89 degrees 41 minutes East 711.1' to a 3" iron pipe for corner, Thence, due South 2,137' to a 3" iron pipe, said pipe being the southeast corner of land acquired by deed from Gregg County, Texas; thence, continuing South 640.7' to the most southeasterly corner of the tract here conveyed; thence, due West 717.7' to a point; thence, North 86 degrees 45 minutes West 1587.9' to a stake for corner in the East right-of-way line of old State Highway No. 149; thence, North 1 degree 53 minutes East 500.8' to a 2" iron pipe at the south southwest corner of the Holloway Estate tract of land; thence, North 34 degrees 45 minutes West 60.82' to a 2" iron pipe, being the south southwest corner of the tract acquired by deed from Gregg County, Texas; thence, North 43 degrees 16 minutes West 487.5' to a concrete right-of-way monument on the East right of way of new State Highway No. 149; thence, North 16 degrees 59 minutes West 48.9' to a corner on the East right of way of New State Highway 149 thence North 7 degrees 5 minutes West 1,618' to a stake on the East right-of-way line of new State Highway No. 149; thence, North 4 degrees 28 minutes East 128.7' to place of beginning containing 156.22 acres more or less, bounded on the North by the City of Longview city limits, same being contiguous to Espy Park and Lawrence Addition to the City of Longview; on the east by the Lawrence Estate, on the south by the lands of Holloway and old State Highway 149, and on the West by Mobberly Avenue.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (d). Applies sec. 204 (e), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (e))

This amendment shall become effective November 6, 1948.

Issued this 3d day of November 1948.

TIGHE E. WOODS,
Housing Expediter.

Statement To Accompany Amendment 48 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments

The Local Advisory Board for Gregg County, Texas, which constitutes the Longview Defense-Rental Area, State of Texas, has, in accordance with section 204 (e) (1) (A) of the Housing and Rent Act of 1947, as amended, recommended the decontrol of that portion of said defense-rental area which consists of the campus grounds of the LeTourneau Technical Institute.

Upon consideration of the evidence submitted in support of the recommendation and other evidence in the files of the Housing Expediter, the Housing Expediter has found that the recommendation is appropriately substantiated and in accordance with applicable law and regulations. The Housing Expediter is, therefore, issuing this Amendment to effectuate the recommendation.

[F. R. Doc. 48-9736; Filed, Nov. 5, 1948; 8:47 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 5666]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

CONTRIBUTIONS OF EMPLOYER TO EMPLOYEES' TRUST OR ANNUITY PLAN AND COMPENSATION UNDER A DEFERRED PAYMENT PLAN

On November 14, 1947 notice of proposed rule making relating to contributions of an employer to an employees' trust or annuity plan and compensation under a deferred payment plan was published in the FEDERAL REGISTER (12 F. R. 7596). After consideration of all such relevant matter as was presented by interested persons regarding the proposal, the following amendments to Regulations 111 (26 CFR, Part 29) are hereby adopted.

PARAGRAPH 1. Section 29.23 (p)-1 is amended as follows:

(A) The third and following sentences of the first paragraph thereof are stricken out and there is inserted in lieu thereof the following: "Section 23 (p) does not apply to a plan which does not defer the receipt of compensation. Neither does section 23 (p) apply to deductions for contributions under a plan which is primarily a dismissal wage, or unemployment benefit plan or a sickness, accident, hospitalization, medical expense, recreational, welfare, or similar benefit plan, or a combination thereof. Section 23 (p) is, however, applicable to all contributions (including contributions to provide incidental benefits such as life insurance protection) under a stock bonus, pension, profit-sharing, or annuity plan, whether or not the employees' rights in such contributions are nonforfeitable, but deductions under this section are subject to conditions and limitations under section 23 (a) as well as those particularly provided in section 23 (p)."

(B) The second paragraph thereof is amended to read as follows:

In order to be deductible under section 23 (p), contributions must be expenses which would be deductible under section 23 (a) if it were not for the provision in section 23 (p) (1) that they are deductible, if at all, only under section 23 (p). Contributions may therefore be deducted under section 23 (p) only to the extent that they are ordinary and necessary expenses during the taxable year in carrying on trade or business and are compensation for personal services actually rendered. In no case is a deduction allowable under section 23 (p) for the amount of any contribution for the benefit of an employee in excess of the amount which, together with other deductions allowed for compensation for such employee's services, constitutes a reasonable allowance for compensation for the services actually rendered. What constitutes a reasonable allowance depends upon the facts in the particular case. Among the elements to be considered in determining this are the personal services actually rendered in prior years as well as the current year and all compensation and contributions paid to or for such employee in prior years as well as in the current year. Thus, a contribution which is in the nature of additional compensation for services performed in prior years may be deductible, even if the total of such contributions and other compensation for the current year would be in excess of reasonable compensation for services performed in the current year, provided that such total plus all compensation and contributions paid to or for such employee in prior years represents a reasonable allowance for all services rendered by the employee by the end of the current year. A contribution under a plan which is primarily for the benefit of shareholders of the employer is not deductible. Such a contribution may constitute a dividend within the meaning of section 115 (a). See also §§ 29.23 (a)-6 and 29.23 (a)-8. In addition to the limitations referred to above, deductions under section 23 (p) are also subject to further conditions and limitations particularly provided therein.

(C) The second sentence of the third paragraph thereof is amended to read as follows: "Thus, where a corporation pays pensions to such of its retired employees and in such amounts as may be determined from time to time by the board of directors or responsible officers of the company, or where a corporation is under an obligation, whether funded or unfunded, to pay a pension or other deferred compensation to an employee, there is a method having the effect of a plan deferring the receipt of compensation for which deductions are governed by section 23 (p)."

PAR. 2. Section 29.23 (p)–2 is amended to read as follows:

§ 29.23 (p)–2 *Information to be furnished by employer claiming deductions.* If a deduction from gross income is claimed under section 23 (p) (1) (A), (B), (C), or (F), the employer, except as otherwise provided in paragraph (j) of this section, must file the following information for each plan involved to establish that it meets the requirements of section 165 (a) or 23 (p) (1) (B), and that the deductions claimed do not exceed the amount allowable under subparagraphs (A), (B), (C), or (F) of section 23 (p) (1), as the case may be:

(a) Verified copies of all the instruments constituting or evidencing the plan, including trust indentures, group annuity contracts, specimen copy of each type of individual contract, and specimen copy of formal announcement and comprehensive detailed description to employees, with all amendments to any such instruments.

(b) A statement describing the plan which identifies it and which sets forth the name or names of the employers, the effective date of the plan and of any amendments thereto, the method of distribution or of disbursing benefits (whether by trustee, insurance company, or otherwise), the dates when the instruments or amendments were executed, the date of formal announcement and the dates when comprehensive detailed description of the plan and of each amendment thereto were made available to employees generally, the dates when the plan and when the trust or the contract evidencing the plan and of any amendments thereto were put into effect so that contributions thereunder were irrevocable, and a summary of the provisions and rules relating to:

(1) Employee eligibility requirements for participation in the plan,

(2) Employee contributions,

(3) Employer contributions,

(4) The basis or formula for determining the amount of each type of benefit and the requirements for obtaining such benefits and the vesting conditions,

(5) The medium of funding (e. g., self-insured, unit purchase group annuity contract, individual level annual premium retirement endowment insurance contracts, etc.) and, if not wholly insured, the medium of contributions and the kind of investments, and

(6) The discontinuance or modification of the plan and distributions or benefit payments upon liquidation or termination.

(c) A tabulation in columnar form showing the information specified below with respect to each of the 25 highest paid employees covered by the plan in the taxable year, listed in order of their nondeferred compensation (where there are several plans of deferred compensation, the information for each of the plans may be shown on a single tabulation without repetition of the information common to the several plans):

(1) Name.

(2) Whether an officer.

(3) Percentage of each class of stock owned directly or indirectly by the employee or members of his family.

(4) Whether the principal duties consist in supervising the work of other employees.

(5) Year of birth.

(6) Length of service for employer to the close of the year.

(7) Total nondeferred compensation paid or accrued during the taxable year with a breakdown of such compensation into the following components: (i) Basic compensation and overtime pay, (ii) other direct payments, such as bonuses and commissions, (iii) compensation paid other than in cash, such as goods, services, insurance not directly related to the benefits or provided from funds under the plan, etc.

(8) Amount allocated during the year for the benefit of the employee or his beneficiary (including any insurance provided thereby or directly related thereto), less the employee's contributions during the year, under each other plan of deferred compensation.

(9) Amount allocated during the year for the benefit of the employee or his beneficiary (including any insurance provided thereby or directly related thereto), less the employee's contributions during the year, under the plan. If a profit-sharing or stock bonus plan, also a breakdown of such amounts into the following components: (i) Amounts originally allocated in the year, and (ii) amounts reallocated in the year.

(10) Amount of employee contributions during the year under the plan.

(11) If a pension or annuity plan, (i) the retirement age and date and the form of the retirement benefit, (ii) the annual rate or amount of the retirement benefit, and (iii) the aggregate of all of the employee's contributions under the plan, all based, in the case of an employee who is not on retirement benefit under the plan, upon the assumption of his continued employment at his current rate of compensation until his normal retirement age (or the end of the current year if later) and retirement on such date with the normal form of retirement benefit under the plan.

(d) The following totals:

(1) Total non-deferred compensation paid or accrued during the taxable year for all employees covered under the plan and also for all employees of the employer.

(2) Total amount allocated during the year for the benefit of employees, former or retired employees, or their beneficiaries (including any insurance provided thereby or directly related thereto), less employees contributions during the year under the plan and, if a profit-sharing or stock bonus plan, also a breakdown of such total into the following components: (i) Amount originally allocated in the year, and (ii) amount reallocated in the year.

(e) A schedule showing the total number of employees as of the close of the year for each of the following groups, based on reasonable estimates:

(1) All employees ineligible for coverage under the plan because of requirements as to employment classification, specifying the reasons applicable to the group (as, for example, temporary, seasonal, part time, hourly pay basis, etc.).

(2) All employees ineligible for coverage under the plan because of requirements as to length of service and not included in subparagraph (1) of this paragraph.

(3) All employees ineligible for coverage under the plan because of requirements as to minimum age and not included in subparagraphs (1) or (2) of this paragraph.

(4) All employees ineligible for coverage under the plan solely because of requirements as to minimum rate of compensation.

(5) All employees ineligible for coverage under the plan other than those employees included in subparagraphs (1), (2), (3), or (4) of this paragraph, specifying the reasons applicable to the group.

(6) All employees ineligible for coverage under the plan for any reasons, which should be the sum of subparagraphs (1) to (5), of this paragraph.

(7) All employees eligible for coverage but not covered under the plan.

(8) All employees covered under the plan.

(9) All employees of the employer, which should be the sum of subparagraphs (6), (7), and (8) of this paragraph.

If it is claimed that the requirements of section 165 (a) (3) (A) are satisfied, also the data and computations necessary to show that such requirements are satisfied.

(f) In the case of a trust, a detailed balance sheet and a detailed statement of receipts and disbursements during the year; in the case of a nontrusteed annuity plan, a detailed statement of the names of the insurers, the contributions paid by the employer and by the employees, and a statement as to the amounts and kinds of premium refunds or similar credits made available and the disposition of such credits in the year.

(g) If a pension or annuity plan, a detailed description of all the methods, factors, and assumptions used in determining costs and in adjusting the costs for actual experience under the plan (including any loadings, contingency reserves, or special factors and the basis of any insured costs or liabilities involved therein) explaining their source and application in sufficient detail to permit ready analysis and verification thereof, and, in the case of a trust, a detailed description of the basis used in valuing the investments held. Also a summary of the resulting costs or liabilities and adjustments for the year under the pension or annuity plan in sufficient detail to permit ready verification of the reasonableness thereof.

(h) A statement of the applicable limitations under section 23 (p) (1) (A), (B), (C), or (F) and an explanation of the method of determining such limitations and a summary of the data and computations necessary to determine the allowable deductions for the taxable year.

(i) A statement of the contributions paid in the taxable year, showing the date and amount of each payment. Also a summary of the deductions claimed for the taxable year for the plan with a breakdown of the deductions claimed into the following components: (1)

Under section 23 (p) (1) for contributions paid in the taxable year before giving effect to the provisions of subparagraph (F) thereof, (2) under section 23 (p) (1) for contributions paid in prior taxable years beginning after December 31, 1941 in accordance with the carryover provisions of subparagraphs (A) and (C) thereof before giving effect to the provisions of subparagraph (F) thereof, (3) any reductions or increases in the deductions in accordance with the provisions of subparagraph (F) thereof, and (4) under section 23 (p) (2) for contributions paid to a pension trust in a taxable year beginning before January 1, 1942.

(j) If there is any change in the plan, instruments, methods, factors, or assumptions upon which the data and information specified in paragraph (a), (b), or (g) of this section are based, a detailed statement explaining the change and its effect must be filed with the information otherwise required for the taxable year in which the change is put into effect and, insofar as there is no such change, after the data and information specified in those paragraphs has been filed in connection with a tax return, unless otherwise requested by the Commissioner, a statement that there is no such change may be filed in lieu of repeated filing of the information. After the information specified in paragraph (c) of this section has been filed for two consecutive years, unless otherwise requested by the Commissioner, so long as the plan and the method and basis of allocations are not changed, the tabulation need show such information only with respect to employees who, at any time in the taxable year, own, directly or indirectly, more than 5 percent of the voting stock, considering stock so owned by an individual's spouse or minor lineal descendant as owned by the individual for this purpose.

If a deduction is claimed under section 23 (p) (1) (D) for the taxable year, the taxpayer shall furnish such information as is necessary to show that the deduction is not allowable under the other subparagraphs of section 23 (p) (1), that the amount paid is an ordinary and necessary expense, and that the employees' rights to or derived from such employer's contribution or such compensation were nonforfeitable at the time the contribution or compensation was paid.

For the purpose of the above information, contributions paid in a taxable year should include those deemed to be so paid in accordance with the provisions of section 23 (p) (1) (E) and exclude those deemed to be paid in the prior taxable year in accordance with such provisions. As used in this section "taxable year" refers to the taxable year of the employer and, unless otherwise requested by the Commissioner, a "year" which is not specified as a "taxable year" may be taken as the taxable year of the employer or as the plan, trust, valuation, or group contract year beginning in the taxable year of the employer provided the same rule is followed consistently so that there is no gap or overlap in the information furnished for each item. In any case the date or period to which each item of information furnished relates should be clearly shown. All the information required by this section should be filed with the tax return for the taxable year in which the deduction is claimed except that, unless sooner requested by the Commissioner, such information, other than that specified in subparagraph (1) of paragraph (d) of this section and in paragraph (i), of this section may be filed within 12 months after the close of the taxable year provided there is filed with the tax return a statement that the information cannot reasonably be filed therewith, setting forth the reasons therefor.

In any case all the information and data required by this section must be filed in the collector's office in which the employer files his tax returns and identified for association with the appropriate returns and must be filed independently of any information and data otherwise submitted in connection with a determination of the qualification of the trust or plan under section 165 (a). The Commissioner may, in addition, require any further information that he considers necessary to determine allowable deductions under section 23 (p) or qualification under section 165 (a) and may waive the filing of such information required herein which he finds unnecessary in a particular case. Unless requested by the Commissioner, the information specified above need not be filed for any taxable year ending prior to January 1, 1949 if the information specified in this section prior to its amendment by Treasury Decision 5666 is filed for such year.

Records substantiating all data and information required by this section to be filed must be kept at all times available for inspection by internal revenue officers at the main office or place of business of the employer.

PAR. 3. Section 29.23 (p)–3 is amended as follows:

(A) The words "allows additional deductions" in the first sentence thereof are stricken out and there is inserted in lieu thereof the words "provides alternative limitations".

(B) The following paragraph is inserted at the end thereof:

If contributions are paid to or under more than one plan in the taxable year beginning in 1942 and prior to September 1, 1942, the alternative limitations provided in section 162 (d) (1) (C) of the Revenue Act of 1942 are determined by applying the provisions of this section severally to the several plans and respective contributions. See also § 29.23 (p)–12.

PAR. 4. Section 29.23 (p)–4 is amended to read as follows:

§ 29.23 (p)–4 *Contributions of an employer to or under an employees' pension trust or annuity plan that meets the requirements of section 165 (a); application of section 23 (p) (1) (A); in general.* If contributions are paid by an employer in a taxable year beginning after December 31, 1941 to or under a pension trust or annuity plan for employees and the general conditions and limitations applicable to deductions for such contributions are satisfied (see § 29.23 (p)–1), the contributions are deductible under section 23 (p) (1) (A) or (B) if the further conditions provided therein are also satisfied. As used here, a "pension trust" means a trust forming part of a pension plan and an "annuity plan" means a pension plan under which retirement benefits are provided under annuity or insurance contracts without a trust. For the meaning of "pension plan" as used here, see § 29.165–1 (a). Where disability, withdrawal, insurance, or survivorship benefits incidental and directly related to the retirement benefits under a pension or annuity plan are provided for the employees or their beneficiaries by contributions under the plan, deductions on account of such incidental benefits are also covered under section 23 (p) (1) (A) or (B). See § 29.165–6 as to taxability to employees of cost of incidental insurance protection. In order to be deductible under section 23 (p) (1) (A), contributions to a pension trust must be paid in a taxable year of the employer which ends with or within a year of the trust for which it is exempt under section 165 (a). In order that contributions carried over may be deducted in a succeeding taxable year of the employer in accordance with section 23 (p) (1) (A) (iv), the succeeding year also must end with or within a taxable year of the trust for which it is exempt under section 165 (a). See § 29.23 (p)–9 as to conditions for deductions under section 23 (p) (1) (B) in the case of an annuity plan. In either case the deductions are also subject to further limitations provided in section 23 (p) (1) (A). The limitations provided in section 23 (p) (1) (A), with an exception provided for certain years under clause (i) thereof (see §29.23 (p)–5), are based on the actuarial costs of the plan and section 23 (p) (1) (A) requires that the costs and the limitations based on costs under that section shall be determined under regulations prescribed by the Commissioner with the approval of the Secretary (or, in certain cases under section 23 (p) (1) (A) (i), in accordance with a finding of the Commissioner).

In determining costs for the purpose of limitations under section 23 (p) (1) (A), the effects of expected mortality and interest must be discounted and the effects of expected withdrawals, changes in compensation, retirements at various ages, and other pertinent factors may be discounted or otherwise reasonably recognized. A properly weighted retirement age based on adequate analyses of representative experience may be used as an assumed retirement age. Different basic assumptions or rates may be used for different classes of risks or different groups where justified by conditions or required by contract. In no event shall costs for the purpose of section 23 (p) (1) (A) exceed costs based on assumptions and methods all of which are reasonable in view of the provisions and coverage of the plan, funding medium, reasonable expectations as to the effects of mortality and interest, reasonable and adequate regard for other factors such as withdrawal and deferred retirement, whether or not discounted, which can be expected to reduce costs materially, reasonable expenses of oper-

ation, and all other relevant conditions and circumstances. In any case, in determining the costs and limitations an adjustment shall be made on account of any experience more favorable than that assumed in the basis of limitations for prior years, and, unless such adjustments are consistently made every year by reducing the limitations otherwise determined by any decrease in liability or cost arising from experience in the next preceding taxable year more favorable than the assumed experience on which the costs and limitations were based, the adjustment shall be made by some other method approved by the Commissioner.

Any expenses incurred by the employer in connection with the plan, such as trustee's and actuary's fees, which are not provided for by contributions under it are deductible under section 23 (a) to the extent that they are ordinary and necessary.

In case contributions are paid in the employer's taxable year beginning in 1942 and prior to September 1, 1942, the limitation on deductions for such taxable year is subject to an exception provided in section 162 (d) (1) (C) of the Revenue Act of 1942 (see § 29.23 (p)–3).

In case deductions are allowable under section 23 (p) (1) (C) as well as under section 23 (p) (1) (A) or (B), the limitations under section 23 (p) (1) (A) and (C) are determined and applied without giving effect to the provisions of section 23 (p) (1) (F) but the amounts allowable as deductions are subject to the further limitations provided in section 23 (p) (1) (F) (see § 29.23 (p)–12).

PAR. 5. Section 29.23 (p)–5 is amended to read as follows:

§ 29.23 (p)–5 *Pension and annuity plans; limitations under section 23 (p) (1) (A) (i).* Subject to the applicable general conditions and limitations (see § 29.23 (p)–4), the initial limitation under section 23 (p) (1) (A) (i) is 5 percent of the compensation otherwise paid or accrued during the taxable year to all employees under the pension or annuity plan. This initial 5 percent limitation applies to the first taxable year beginning after December 31, 1941 for which a deduction is allowed for contributions to or under such a plan and also applies to any subsequent year for which the 5 percent figure is not reduced by the Commissioner as provided below. For years to which the initial 5 percent limitation applies no adjustment on account of prior experience is required. If the contributions do not exceed the initial 5 percent limitation in the first taxable year to which this limitation applies, the taxpayer need not submit actuarial data for such year.

For the first taxable year following the first year to which the initial 5 percent limitation applies, and for every fifth year thereafter, or more frequently where preferable to the taxpayer, the taxpayer shall submit with his return a certification by a qualified actuary or by the company underwriting a nontrusteed annuity plan of the amount reasonably necessary to provide the remaining unfunded cost of past and current service credits of all employees under the plan with a statement explaining all the methods, factors, and assumptions used in determining such amount. This amount may be determined as the sum of (a) the unfunded past service cost as of the beginning of the year, and (b) the normal cost for the year, all determined by methods, factors, and assumptions appropriate as a basis of limitations under clause (iii). Whenever requested by the Commissioner a similar certification and statement shall be submitted for the year or years specified in such request. The Commissioner will make periodical examinations of such data at not less than 5-year intervals and will reduce the limitation under clause (i) below the 5 percent limitation for the years with respect to which he finds that the 5 percent limitation exceeds the amount reasonably necessary to provide the remaining unfunded cost of past and current service credits of all employees under the plan. Where the limitation is so reduced, the reduced limitation shall apply until the Commissioner finds that a subsequent actuarial valuation shows a change to be necessary. Such subsequent valuation may be made by the taxpayer at any time and submitted to the Commissioner with a request for a change in the limitation.

For the purpose of limitations under clause (i), "compensation otherwise paid or accrued" means all of the compensation paid or accrued except that for which a deduction is allowable under a plan that qualifies under section 165 (a), including a plan that qualifies under section 23 (p) (1) (B). Where two or more pension or annuity plans cover the same employee, under clause (i) the deductions with respect to each such plan are subject to the limitations applicable to the particular plan and the total deductions for all such plans are also subject to the limitations which would be applicable thereto if they constituted a single plan. Where, because of the particular provisions applicable to a large class of employees under a plan, the costs with respect to such employees are nominal in comparison with their compensation, after the first year to which the initial 5 percent limitation applies, deductions under clause (i) are subject to limitations determined by considering the plan applicable to such class as if it were a separate plan. Deductions are allowable to the extent of the applicable limitations under clause (i) even where these are greater than the applicable limitations under clause (ii) or clause (iii).

PAR. 6. Section 29.23 (p)–6 is amended to read as follows:

§ 29.23 (p)–6 *Pension and annuity plans; limitations under section 23 (p) (1) (A) (ii).* Subject to the applicable general conditions and limitations (see § 29.23 (p)–4), under section 23 (p) (1) (A) (ii) deductions may be allowed to the extent of limitations based on costs determined by distributing the remaining unfunded cost of the past and current service credits with respect to all employees covered under the trust or plan as a level amount or level percentage of compensation over the remaining service of each such employee except that, as to any three individuals with respect to whom more than 50 percent of such remaining unfunded cost is attributable, the remaining unfunded cost attributable to such individuals shall be distributed over a period of at least five taxable years.

The determination of costs as a basis of deductions under clause (ii) of section 23 (p) (1) (A) may be illustrated by a case where it is estimated actuarially as of the beginning of the plan on the basis of appropriate assumptions and factors that employer contributions of 4 percent of compensation of each covered employee during his remaining service will be sufficient to provide the current service credits of all employees under the plan and employer contributions of 3 percent of compensation of each covered employee during his remaining service will be sufficient to provide the past service credits of all employees under the plan, so that the estimated cost for the first year is 7 percent of compensation of covered employees.

The statutory limitation for any taxable year under clause (ii) is any excess of the amount necessary for the year on the basis of the costs over the amount allowable as a deduction under clause (i), all determined under regulations prescribed by the Commissioner with the approval of the Secretary.

For this purpose such excess, adjusted for prior experience, may be computed for each year as follows, all determinations being made as of the beginning of the year:

(a) Determine the value of all benefits expected to be paid after the beginning of the year for all employees, any former employees, and any other beneficiaries, then covered under the plan.

(b) If employees contribute under the plan, determine the value of all contributions expected to be made after the beginning of the year by employees then covered under the plan.

(c) Determine the value of all funds of the plan as of the beginning of the year.

(d) Determine the amount remaining to be distributed as a level amount or as a level percentage of compensation over the remaining future service of each employee by subtracting from paragraph (a) of this section the sum of paragraphs (b) and (c) of this section.

(e) Determine the value of all compensation expected to be paid after the beginning of the year to all employees then covered under the plan.

(f) Determine an accrual rate for each employee by dividing paragraph (e) of this section into paragraph (d) of this section.

(g) Compute the excess under clause (ii) for the year by multiplying the compensation paid to all employees covered under the plan during the year by any excess of paragraph (f) of this section over 5 percent. In general, where this method is used, the limitation under clause (ii) will be equal to the excess so

computed without further adjustment on account of prior favorable experience, provided all the factors and assumptions used are reasonable in view of all applicable considerations (see § 29.23 (p)–4 and provided paragraph (e) of this section is not less than five times the annual rate of compensation in effect at the beginning of the year.

Instead of determining the excess deductible under clause (ii) by the above method, such excess may be based upon costs determined by some other method which is reasonable and appropriate under the circumstances. Thus, such excess may be based on the amounts necessary with respect to each individual covered employee to provide the remaining unfunded cost of all his benefits under the plan distributed as a level amount over the period remaining until the normal commencement of his retirement benefits, in accordance with other generally accepted actuarial methods which are reasonable and appropriate in view of the provisions of the plan and the funding medium. In view of the relationship of clause (ii) to clauses (i) and (iii), however, if the excess is determined by a method other than that set forth in the preceding paragraph the total limitations under clauses (i) and (ii) combined must be determined by a method approved by the Commissioner, except where they do not exceed the limitations under clause (iii), adjusted for prior favorable experience.

PAR. 7. Section 29.23 (p)–7 is amended to read as follows:

§ 29.23 (p)–7 *Pension and annuity plans; limitations under section 23 (p) (1) (A) (iii).* Subject to the applicable general conditions and limitations (see § 29.23 (p)–4), under section 23 (p) (1) (A) (iii), in lieu of amounts deductible under the limitations of clause (i) and clause (ii), deductions may be allowed to the extent of limitations based on normal and past service or supplementary costs of providing benefits under the plan. "Normal cost" for any year is the amount actuarially determined which would be required as a contribution by the employer in such year to maintain the plan if the plan had been in effect from the beginning of service of each then included employee and if such costs for prior years had been paid and all assumptions as to interest, mortality, time of payment, etc., had been fulfilled. Past service or supplementary cost at any time is the amount actuarially determined which would be required at such time to meet all the future benefits provided under the plan which would not be met by future normal costs and employee contributions with respect to the employees covered under the plan at such time.

The limitation under clause (iii) for any taxable year is the sum of normal cost for the year plus an amount not in excess of one-tenth of the past service or supplementary cost as of the date the past service or supplementary credits are provided under the plan, all determined under regulations prescribed by the Commissioner with the approval of the Secretary. For this purpose the normal costs may be determined by any generally accepted actuarial method and may be expressed either as (a) the aggregate of level amounts with respect to each employee covered under the plan, (b) a level percentage of payroll with respect to each employee covered under the plan, or (c) the aggregate of the single premium or unit costs for the unit credits accruing during the year with respect to each employee covered under the plan, provided, in any case, that the method is reasonable in view of the provisions and coverage of the plan, funding medium, and other applicable considerations. The limitation may include one-tenth of the past service or supplementary cost as of the date the provisions resulting in such cost were put into effect, but is subject to adjustments for prior favorable experience. See § 29.23 (p)–4. In any case past service or supplementary costs shall not be included in the limitation for any year when the amount required to fully fund or purchase such past service or supplementary credits has been deducted and no deduction is allowable for any amount (other than the normal cost) which is paid in after such credits are fully funded or purchased.

PAR. 8. Section 29.23 (p)–8 is amended to read as follows:

§ 29.23 (p)–8 *Pension and annuity plans; contributions in excess of limitations under section 23 (p) (1) (A); application of section 23 (p) (1) (A) (iv).* Where contributions paid by an employer in a taxable year beginning after December 31, 1941 to or under a pension or annuity plan exceed the limitations applicable to such year under section 23 (p) (1) (A) but otherwise satisfy the conditions for deduction under section 23 (p) (1) (A) or (B), in accordance with clause (iv) of section 23 (p) (1) (A) the excess contributions are carried over and deductible in succeeding taxable years in order of time to the extent of the difference between the amount paid and deductible in each such succeeding year and the limitation applicable to such year under clause (i), (ii), or (iii). Such excess contributions are deductible under clause (iv) of section 23 (p) (1) (A) in succeeding taxable years in order of time to the extent of the difference between the amount paid and deductible in each such succeeding year and the limitation applicable to such year under clause (i), (ii), or (iii). The provisions of clause (iv) are to be applied after giving effect to the exception provided in section 162 (d) (1) (C) of the Revenue Act of 1942 for a taxable year beginning in 1942 (see § 29.23 (p)–3) but before giving effect to the provisions of section 23 (p) (1) (F) for any year. The carry-over provisions of section 23 (p) (1) (A) (iv), after effect has been given to section 162 (d) (1) (C) of the Revenue Act of 1942, but before effect has been given to section 23 (p) (1) (F) may be illustrated by the following example:

Taxable year ending December 31, 1942:	
Amount of contributions paid in year	$100,000
Limitation applicable to year	60,000
Amount deductible for year	60,000
Excess carried over to succeeding years	40,000
Taxable year ending December 31, 1943:	
Amount of contributions paid in year	25,000
Carried over from previous years	40,000
Total deductible subject to limitation	65,000
Limitation applicable to year	50,000
Amount deductible for year	50,000
Excess carried over to succeeding years	15,000
Taxable year ending December 31, 1944:	
Amount of contributions paid in year	10,000
Carried over from previous years	15,000
Total deductible subject to limitation	25,000
Limitation applicable to year	45,000
Amount deductible for year	25,000
Excess carried over to succeeding years	None

PAR. 9. Section 29.23 (p)–9, as amended by Treasury Decision 5436, approved February 3, 1945, is further amended to read as follows:

§ 29.23 (p)–9 *Contributions of an employer under an employees' annuity plan that meets the requirements of section 165 (a); application of section 23 (p) (1) (B).* If contributions are paid by an employer in a taxable year beginning after December 31, 1941 under an annuity plan for employees and the general conditions and limitations applicable to deductions for such contributions are satisfied (see § 29.23 (p)–1), the contributions are deductible under section 23 (p) (1) (B) if the further conditions provided therein are satisfied. For the meaning of "annuity plan" as used here, see § 29.23 (p)–4. In order that contributions by the employer may be deducted under section 23 (p) (1) (B) all of the following conditions must be satisfied:

(a) The contributions must be paid toward the purchase of retirement annuities (or for disability, severance, insurance, or survivorship benefits incidental and directly related to such annuities) under an annuity plan for the exclusive benefit of the employer's employees or their beneficiaries. See § 29.165–1 (a).

(b) The contributions must be paid in a taxable year of the employer which ends with or within a year of the plan for which it meets the applicable requirements with respect to discrimination set out in paragraphs (3), (4), (5), and (6) of section 165 (a). In order that contributions carried over may be deducted in a succeeding taxable year of the employer in accordance with section 23 (p) (1) (A) (iv), the succeeding year also must end with or within a taxable year of the plan for which it meets such requirements. See §§ 29.165–3 and 29.-

165–4. In the case of an annuity plan in effect on or before September 1, 1942, the requirements of these paragraphs do not apply to any period of the plan within the taxable year of the employer beginning in 1942 and are considered to be satisfied for the period beginning with the beginning of the first taxable year of the employer following December 31, 1942, and ending June 30, 1945, if the provisions thereof satisfy such requirements by June 30, 1945, and if by that time all provisions of such plan which are necessary to satisfy such requirements are in effect and have been made effective for all purposes with respect to the portion of such period after December 31, 1943. In the case of an annuity plan put into effect after September 1, 1942, and prior to January 1, 1945, these requirements are considered to be satisfied for the period beginning with the date on which it was put into effect and ending with June 30, 1945, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes with respect to the portion of such period after December 31, 1943. In the case of an annuity plan put into effect after December 31, 1944, these requirements are considered to be satisfied for the period beginning with the date on which it was put into effect and ending with the 15th day of the third month following the close of the taxable year of the employer in which the plan was put into effect, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes with respect to the whole of such period. See section 162 (d) of the Revenue Act of 1942, as amended by Public Law 511 (78th Congress), approved December 20, 1944, and § 29.165–5.

(c) There must be a definite written arrangement between the employer and the insurer that refunds of premiums, if any, shall be applied within the taxable year of the employer in which received or within the next succeeding taxable year toward the purchase of retirement annuities (or for disability, severance, insurance, or survivorship benefits incidental and directly related to such annuities) under the plan. For the purpose of this condition, "refunds of premiums" means payments by the insurer on account of credits such as dividends, experience rating credits, or surrender or cancellation credits. The arrangement may be in the form of contract provisions or written directions of the employer or partly in one form and partly in another. This condition will be considered satisfied where (1) all credits are applied regularly as they are determined toward the premiums next due under the contracts before any further employer contributions are so applied, and (2) under the arrangement (i) no refund of premiums may be made during continuance of the plan unless applied as aforesaid and (ii) if refunds of premiums may be made after discontinuance of the plan on account of surrenders or cancellations before all retirement annuities provided under the plan with respect to service prior to its discontinuance have been purchased, such refunds will be applied in the taxable year of the employer in which received or in the next succeeding taxable year to purchase retirement annuities for employees by a procedure which does not contravene the conditions of section 165 (a) (4).

Where the above conditions are satisfied, the amounts of deductions are under section 23 (p) (1) (B) are governed by the limitations provided in section 23 (p) (1) (A). See §§ 29.23 (p)–4 to 29.23 (p)–8, inclusive.

PAR. 10. Section 29.23 (p)–10 is amended to read as follows:

§ 29.23 (p)–10 *Contributions of an employer to an employees' profit-sharing or stock bonus trust that meets the requirements of section 165 (a); application of section 23 (p) (1) (C).* If contributions are paid by an employer in a taxable year beginning after December 31, 1941 to a profit-sharing or stock bonus trust for employees and the general conditions and limitations applicable to deductions for such contributions are satisfied (see § 29.23 (p–1), the contributions are deductible under section 23 (p) (1) (C) if the further conditions provided therein are also satisfied. In order to be deductible under section 23 (p) (1) (C) the contributions must be paid in a taxable year of the employer which ends with or winthin a taxable year of the trust for which it is exempt under section 165 (a) and the trust must not be designed to provide retirement benefits for which the contributions can be determined actuarially. In order that contributions carried over may be deducted in a succeeding taxable year of the employer in accordance with the third sentence of section 23 (p) (1) (C), the succeeding year also must end with or within a taxable year of the trust for which it is exempt under section 165 (a).

The amount of deductions under section 23 (p) (1) (C) for any taxable year is subject to limitations based on the compensation otherwise paid or accrued during such taxable year to the employees who, in such year, are beneficiaries of the trust funds accumulated under the plan. For this purpose "compensation otherwise paid or accrued" means all of the compensation paid or accrued except that for which a deduction is allowable under a plan that qualifies under section 165 (a), including a plan that qualifies under section 23 (p) (1) (B). The limitations under section 23 (p) (1) (C) apply to the total amount deductible for contributions to the trust regardless of how the funds of the trust are invested, applied, or distributed, and no other deduction is allowable on account of any benefits provided by contributions to the trust or by the funds thereof. Where contributions are paid to two or more profit-sharing or stock bonus trusts satisfying the conditions for deduction under section 23 (p) (1) (C), such trusts are considered as a single trust in applying these limitations.

The primary limitation on deductions for a taxable year is 15 percent of the compensation otherwise paid or accrued during such taxable year to the employees who, in such year, are beneficiaries of the trust funds accumulated under the plan. So long as the contributions do not in any year exceed the primary limitation, this is the only limitation under section 23 (p) (1) (C) which has any effect.

In order that the deductions may average 15 percent of compensation otherwise paid or accrued over a period of years where contributions in some taxable year beginning after December 31, 1941 are less than the primary limitation but contributions in some succeeding taxable year exceed the primary limitation, deductions in each succeeding year are subject to a secondary limitation instead of to the primary limitation. The secondary limitation for any year is equal to the lesser of (a) twice the primary limitation for the year, or (b) any excess of (1) the aggregate of the primary limitations for the year and for all prior years beginning after December 31, 1941 over (2) the aggregate of the deductions allowed or allowable under the limitations provided in section 23 (p) (1) (C) for all prior years beginning after December 31, 1941, after giving effect to the provisions of section 162 (d) (1) (C) of the Revenue Act of 1942 in computing both items (1) and (2).

In any case where the contributions in a taxable year beginning after December 31, 1941 exceed the amount allowable as a deduction for the year under section 23 (p) (1) (C) after giving effect to section 162 (d) (1) (C) of the Revenue Act of 1942, the excess is deductible in succeeding taxable years, in order of time, in which the contributions are less than the primary limitations, so that the total deduction for any such succeeding year is equal to the primary limitation for such year but not more than the sum of the contributions in such year and the excess contributions not deducted under the limitations of section 23 (p) (1) (C) for prior years beginning after December 31, 1941.

In case contributions are paid in the employer's taxable year beginning in 1942 and prior to September 1, 1942, the limitation on deductions for such taxable year is subject to an exception provided in section 162 (d) (1) (C) of the Revenue Act of 1942 (see § 29.23 (p)–3).

In case deductions are allowable under section 23 (p) (1) (A) or (B), as well as under section 23 (p) (1) (C), the limitations under section 23 (p) (1) (A) and (C) are determined and applied without giving effect to the provisions of section 23 (p) (1) (F) but the amounts allowable as deductions are subject to the further limitations provided in section 23 (p) (1) (F) (see § 29.23 (p)–12).

The provisions of section 23 (p) (1) (C), after effect has been given to section 162 (d) (1) (C) of the Revenue Act of 1942 but without giving effect to section 23 (p) (1) (F), may be illustrated as follows:

[Illustration of provisions of section 23 (p) (1) (C) after effect has been given to section 162 (d) (1) (C) of the Revenue Act of 1942 but without giving effect to section 23 (p) (1) (F) (all figures represent thousands of dollars)]

	Taxable (calendar) years						
	1942	1943	1944	1945	1946	1947	1948
1. Amount of contributions:							
(a) In taxable year	65	10	15	100	70	40	30
(b) Carried over from prior taxable years [1]	0	8	0	0	4	5	3
2. Primary limitation applicable to year: 15% of covered compensation in year [1]	57	54	51	48	45	42	39
3. Secondary limitation applicable to year:							
(a) Twice primary limitation				96	90	84	
(b) (1) Aggregate primary limitations (see item 2)				210	255	297	
(2) Aggregate prior deductions (see item 4 (c))				90	186	255	
Excess of (1) over (2)				120	69	42	
Lesser of (a) or (b)				96	69	42	
4. Amount deductible for year on account of:							
(a) Contributions in year	57	10	15	96	69	40	30
(b) Contributions carried over	0	8	0	0	0	2	3
(c) Total	57	18	15	96	69	42	33
5. Excess contributions carried over to succeeding years	8	0	0	4	5	3	0

[1] Compensation otherwise paid or accrued during the year to the employees who are beneficiaries of trust funds accumulated under the plan in the year.

PAR. 11. Section 29.23 (p)–11 is amended by striking out the last sentence thereof and inserting in lieu thereof the following two sentences: "If an amount is accrued but not paid during the taxable year, no deduction is allowable for such amount for such year. If an amount is paid during the taxable year but the rights of the employee therein are forfeitable at the time the amount is paid, no deduction is allowable for such amount for any taxable year."

PAR. 12. Section 29.23 (p)–12 is amended to read as follows:

§ 29.23 (p)–12 *Contributions of an employer where deductions are allowable under section 23 (p) (1) (A) or (B) and also under section 23 (p) (1) (C); application of section 23 (p) (1) (F).* Where deductions are allowable under section 23 (p) (1) (A) or (B) for any taxable year beginning after December 31, 1941 on account of contributions under a pension or annuity plan and deductions are also allowable under section 23 (p) (1) (C) for the same year, on account of contributions to a profit-sharing or stock bonus trust, the total deductions under these sections are subject to the provisions of section 23 (p) (1) (F) unless no employee who is a beneficiary under the trusts or plans for which deductions are allowable under section 23 (p) (1) (A) or (B) is also a beneficiary under the trusts for which deductions are allowable under section 23 (p) (1) (C). The provisions of section 23 (p) (1) (F) apply only to deductions for overlapping trusts or plans, i. e., for all trusts or plans for which deductions are allowable under section 23 (p) (1) (A), (B), or (C) except (a) any trust or plan for which deductions are allowable under section 23 (p) (1) (A) or (B) and which does not cover any employee who is also covered under a trust for which deductions are allowable under section 23 (p) (1) (C), and (b) any trust for which deductions are allowable under section 23 (p) (1) (C) and which does not cover any employee who is also covered under a trust or plan for which deductions are allowable under section 23 (p) (1) (A) or (B). The limitations under section 23 (p) (1) (F) for any taxable year are based on the compensation otherwise paid or accrued during the year to all the employees who are beneficiaries under the overlapping trusts or plans in the year. For this purpose "compensation otherwise paid or accrued" means all of the compensation paid or accrued except that for which a deduction is allowable under a plan that qualified under section 165 (a), including a plan that qualifies under section 23 (p) (1) (B). The employees who are beneficiaries under overlapping trusts or plans in a year include all the employees who, in the year, are beneficiaries of the funds accumulated under one or more of the overlapping trusts or plans.

Under section 23 (p) (1) (F), any excess of the total amount otherwise deductible under section 23 (p) (1) (A), (B), or (C) for a taxable year beginning after December 31, 1941 for overlapping trusts or plans in the year over 25 percent of the compensation otherwise paid or accrued during the year to all the employees who are beneficiaries under such trusts or plans is not deductible for such year but is deductible for succeeding taxable years, in order of time, so that the total deductions for such trusts or plans for a succeeding taxable year is equal to the lesser of:

(a) 30 percent of the compensation otherwise paid or accrued during the taxable year to all the employees who are beneficiaries under such trusts or plans in the year, or

(b) The sum of (1) the smaller of (i) 25 percent of the compensation otherwise paid or accrued during the taxable year to all the employees who are beneficaries under such trusts or plans in the year, or (ii) the total of the amounts otherwise deductible under section 23 (p) (1) (A), (B), or (C) for the year for such trusts or plans, and (2) any carry-over to the year from prior years under section 23 (p) (1) (F), i. e., any excess otherwise deductible under section 23 (p) (1) (A), (B), or (C) for a prior taxable year beginning after December 31, 1941 but not deducted for a prior taxable year because of the limitations under section 23 (p) (1) (F).

The limitations under section 23 (p) (1) (F) are determined and applied after all the limitations, deductions otherwise allowable, and carry-overs under section 23 (p) (1) (A), (B), and (C) have been determined and applied, and, in particular, after effect has been given to the carry-over provision in clause (iv) under section 23 (p) (1) (A) and in the second and third sentences of section 23 (p) (1) (C). Where the limitations under section 23 (p) (1) (F) reduce the total amount deductible, the excess deductible in succeeding years is treated as a carry-over which is distinct from and additional to any excess contributions carried over and deductible in succeeding years under the provisions in clause (iv) of section 23 (p) (1) (A) or in the third sentence of section 23 (p) (1) (C). The application of the provisions of section 23 (p) (1) (F) and the treatment of carry-overs for a case where the taxable years are calendar years and the overlapping trusts or plans consist of a pension trust and a profit-sharing trust put into effect in 1943 and covering the same employees may be illustrated as follows:

[Illustration of application of provisions of section 23 (p) (1) (F) and of treatment of carry-overs for overlapping pension and profit-sharing trusts put into effect in 1943 and covering the same employees (all figures represent thousands of dollars)]

	Taxable (calendar) years			
	1943	1944	1945	1946
Before giving effect to section 23 (p) (1) (F)				
Pension trust contributions and limitations, deductions, and carry-overs under section 23 (p) (1) (A):				
1. Contributions paid in year	215	85	140	60
2. Contributions carried over from prior years	0	5	0	20
3. Total deductible for year subject to limitation	215	90	140	80
4. Limitation applicable to year	210	175	120	85
5. Amount deductible for year	210	90	120	80
6. Contributions carried over to succeeding years	5	0	20	0
Profit-sharing trust contributions and limitations, deductions, and carry-overs under section 23 (p) (1) (C):				
7. Contributions paid in year	200	125	105	65
8. Contributions carried over from prior years	0	35	10	0
9. Total deductible for year subject to limitation	200	160	115	65
10. Limitation applicable to year	165	150	135	[1] 110
11. Amount deductible for year	165	150	115	65
12. Contributions carried over to succeeding years	35	10	0	0

[1] Includes carry-over of 20 from 1945.

[Illustration of application of provisions of section 23 (p) (1) (F) and of treatment of carry-overs for overlapping pension and profit-sharing trusts put into effect in 1943 and covering the same employees (all figures represent thousands of dollars)]

	Taxable (calendar) years			
	1943	1944	1945	1946
Application of section 23 (p) (1) (F)—totals for pension and profit-sharing trust				
13. Amount deductible for year under section 23 (p) (1) (F):				
(a) 30% of compensation covered in year [2]	(3)	300	270	180
(b) (1) (i) 25% of compensation covered in year [2]	275	250	225	150
(ii) Total amount otherwise deductible for year: (5) plus (11)	375	240	235	145
(iii) Smaller of (i) or (ii)	275	240	225	145
(2) Carry-over from prior years under section 23 (p) (1) (F)	0	100	40	10
(3) Sum of (1) (iii) and (2)	275	340	265	155
(c) Amount deductible: Lesser of (a) or (b) (3)	275	300	265	155
14. Carry-over to succeeding years under section 23 (p) (1) (F): 13 (b) (2) plus 13 (b) (1) (ii) minus 13 (c)	100	40	10	0

[2] Compensation otherwise paid or accrued during the year to the employees who are beneficiaries under the trusts in the year.
[3] 30% limitation not applicable to first year of plan.

In case contributions are paid in the employer's taxable year beginning in 1942 and prior to September 1, 1942, and the deduction allowable for such year is increased by the effect of section 162 (d) (1) (C) of the Revenue Act of 1942 (see § 29.23 (p)–3), the deductions otherwise allowable for such year under section 23 (p) (1) (A), (B) or (C) are considered to be those allowable after giving effect to the provisions of section 162 (d) (1) (C) of the Revenue Act of 1942 severally for the several overlapping trusts or plans in such year and the limitation applicable to such year under section 23 (p) (1) (F) is not less than the sum of (a) the amounts paid in such taxable year prior to September 1, 1942 to or under the overlapping trusts or plans and deductible under section 23 (a) or 23 (p) prior to amendment by section 162 (d) of the Revenue Act of 1942, and (b) so much of the amounts paid in such taxable year on or after September 1, 1942, to or under such trusts or plans as does not exceed that proportion of 25 percent of the compensation otherwise paid or accrued during such taxable year to all employees who are beneficiaries under such trusts or plans in the year, which the number of months in such taxable year after August 31, 1942 bears to twelve.

PAR. 13. This Treasury decision shall be effective on the 31st day after the date of its publication in the FEDERAL REGISTER.

(56 Stat. 863, 32, 467; 26 U. S. C. 23 (p), 62, 3791)

FRED S. MARTIN,
Acting Commissioner of Internal Revenue.

Approved: November 2, 1948.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 48-9767; Filed, Nov. 5, 1948; 9:02 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IV—National Advisory Committee for Aeronautics

PART 401—CREATION AND AUTHORITY

PART 402—PURPOSE AND FUNCTIONS

PART 403—ORGANIZATION

PART 404—WORK FOR PRIVATE PARTIES

PART 405—AVAILABILITY OF INFORMATION AND RECORDS

DISCONTINUATION OF CODIFICATION AND REVOCATION OF PART

Part 404—Work for Private Parties, hereby is revoked.

The codification of Parts 401, 402, 403, and 405 hereby is discontinued. Any further amendments to this material will be published in the notices section of the FEDERAL REGISTER.

J. F. VICTORY,
Executive Secretary.

NOVEMBER 2, 1948.

[F. R. Doc. 48-9727; Filed, Nov. 5, 1948; 8:46 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

PART 1—MIGRATORY BIRDS AND CERTAIN GAME MAMMALS

OPEN SEASONS, BAG LIMITS, AND POSSESSION OF CERTAIN MIGRATORY GAME BIRDS

Cross Reference: For amendment of § 1.4 respecting extension or reopening of the hunting season in states where emergency action to prevent forest fires has resulted in the shortening of the season, see Proclamation 2822, *supra*.

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Internal Revenue

[26 CFR, Part 81]

ESTATE TAX; ESTATE OF HUSBAND OR WIFE UNDER REVENUE ACT OF 1948

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 3791 of the Internal Revenue Code (53 Stat. 467; 26 U. S. C. 3791) and pursuant to the provisions of the Revenue Act of 1948 (Public Law 471, 80th Congress), enacted April 2, 1948, and of Public Law 869, 80th Congress, approved July 1, 1948.

[SEAL] FRED S. MARTIN,
Acting Commissioner of Internal Revenue.

In order to conform Regulations 105 (26 CFR, Part 81) to certain sections of the Revenue Act of 1948 (Public Law 471, 80th Congress), enacted April 2, 1948, and to Public Law 869, 80th Congress, approved July 1, 1948, such regulations are amended as follows:

PARAGRAPH 1. Section 81.2, as amended by Treasury Decision 5239, approved March 10, 1943, is further amended by striking out the next to the last sentence.

PAR. 2. There is inserted immediately preceding § 81.8 the following:

SEC. 363. (REVENUE ACT OF 1948) CREDIT FOR GIFT TAX

(a) Section 813 (a) (2) (A) of the Internal Revenue Code (relating to credit for gift tax) is hereby amended by inserting before the period at the end thereof the following: "reduced by the aggregate amount of the deductions allowed under subsections (d) and (e) of section 812."

(b) Subparagraph (B) of section 813 (a) (2) of the Internal Revenue Code (relating to credit for gift tax) is hereby amended to read as follows:

(B) In applying, with respect to any gift, the ratio stated in subparagraph (A), the value at the time of the gift or at the time of the death, referred to in such ratio, shall be reduced:

(i) By such amount as will properly reflect the amount of such gift which was excluded in determining (for the purposes of section 1003 (a), or of section 504 (a) of the Revenue Act of 1932) the total amount of gifts made during the year in which the gift was made;

(ii) If a deduction with respect to such gift is allowed under section 812 (e) (the so-called "marital deduction"—then by an

amount which bears the same ratio to such value (reduced as provided in clause (i) of this subparagraph) as the aggregate amount of the marital deductions allowed under section 812 (e) bears to the aggregate amount of such marital deductions computed without regard to subparagraph (H) of section 812 (e) (1); and

(iii) If a deduction with respect to such gift is allowed under section 812 (d) (the so-called "charitable deduction")—then by the amount of such value, reduced as provided in clause (i) of this subparagraph.

(C) Where the decedent was the donor of the gift but, under the provisions of section 1000 (f), the gift was considered as made one-half by his spouse:

(i) The term "the amount of the tax paid under chapter 4," as used in subparagraph (A) of this paragraph, includes the amounts paid with respect to each half of such gift, the amount paid with respect to each being computed in the manner provided in subparagraph (D); and

(ii) In applying, with respect to such gift, the ratio stated in subparagraph (A) of this paragraph, the value at the time of the gift or at the time of the death, referred to in such ratio, includes such value with respect to each half of such gift, each such value being reduced as provided in clause (i) of subparagraph (B) of this paragraph.

(D) (i) For the purposes of subparagraph (A), the amount of tax paid under chapter 4, or under Title III of the Revenue Act of 1932, with respect to any gift shall be an amount which bears the same ratio to the total tax paid for the year in which the gift was made as the amount of such gift bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year.

(ii) For the purposes of clause (i) the "amount of such gift" shall be the amount included with respect to such gift in determining (for the purposes of section 1003 (a), or of section 504 (a) of the Revenue Act of 1932) the total amount of gifts made during such year, reduced by the amount of any deduction allowed with respect to such gift under section 1004 (a) (2), or under section 505 (a) (2) of the Revenue Act of 1932 (the so-called "charitable deduction"), or under section 1004 (a) (3) (the so-called "marital deduction").

(c) Section 936 (b) (1) of the Internal Revenue Code (relating to credit for gift tax) is hereby amended by inserting after the words "entire gross estate" in clause (A) thereof the following: "reduced by the aggregate amount of the deductions allowed under subsections (d) and (e) of section 812".

(d) Paragraph (2) of section 936 (b) of the Internal Revenue Code (relating to credit for gift tax) is hereby amended to read as follows:

(2) In applying, with respect to any gift, the ratio stated in clause (A) of paragraph (1), the value at the time of the gift or at the time of the death, referred to in such ratio, shall be reduced:

(A) By such amount as will properly reflect the amount of such gift which was excluded in determining (for the purposes of section 1003 (a), or of section 504 (a) of the Revenue Act of 1932) the total amount of gifts made during the year in which the gift was made;

"(B) If a deduction with respect to such gift is allowed under section 812 (e) (the so-called "marital deduction")—then by an amount which bears the same ratio to such value (reduced as provided in subparagraph (A) of this paragraph) as the aggregate amount of the marital deductions allowed under section 812 (e) bears to the aggregate amount of such marital deductions computed without regard to subparagraph (H) of section 812 (e) (1); and

(C) If a deduction with respect to such gift is allowed under section 812 (d) (the so-called "charitable deduction")—then by the amount of such value, reduced as provided in subparagraph (A) of this paragraph.

(3) Where the decedent was the donor of the gift but, under the provisions of section 1000 (f), the gift was considered as made one-half by his spouse:

(A) The term "the amount of the tax paid under chapter 4", as used in paragraph (1) of this subsection, includes the amounts paid with respect to each half of such gift, the amount paid with respect to each being computed in the manner provided in paragraph (4); and

(B) In applying, with respect to such gift, the ratio stated in clause (A) of paragraph (1), the value at the time of the gift or at the time of the death, referred to in such ratio, includes such value with respect to each half of such gift, each such value being reduced as provided in subparagraph (A) of paragraph (2).

(4) (A) For the purposes of paragraph (1), the amount of tax paid under chapter 4, or under Title III of the Revenue Act of 1932, with respect to any gift shall be an amount which bears the same ratio to the total tax paid for the year in which the gift was made as the amount of such gift bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year.

(B) For the purposes of subparagraph (A) the "amount of such gift" shall be the amount included with respect to such gift in determining (for the purposes of section 1003 (a), or of section 504 (a) of the Revenue Act of 1932) the total amount of gifts made during such year, reduced by the amount of any deduction allowed with respect to such gift under section 1004 (a) (2), or under section 505 (a) (2) of the Revenue Act of 1932 (the so-called "charitable deduction"), or under section 1004 (a) (3) (the so-called "marital deduction").

(e) The amendments made by this section shall be applicable only with respect to the estates of decedents dying after December 31, 1947.

PAR. 3. Section 81.8, as amended by Treasury Decision 5239, is further amended to read as follows:

§ 81.8 *Credit for gift tax*—(a) *Priority of credits.* If the decedent died after October 21, 1942, the credits authorized against the basic estate tax imposed by section 810 or section 860 are to be deducted in the following order: (1) The credit for estate, inheritance, legacy, or succession taxes under § 81.9, (2) the credit for gift tax under paragraph (b) of this section, and (3) the credit for gift tax under paragraph (c) of this section. If the decedent died on or before October 21, 1942, such credits are to be deducted in the following order: (1) The credit for gift tax under paragraph (b) of this section, (2) the credit for gift tax under paragraph (c) of this section, and, (3) the credit for estate, inheritance, legacy, or succession taxes under § 81.9.

(b) *Credit for gift tax paid under Revenue Act of 1924.* Credit against the basic estate tax imposed by section 810 or section 860 is authorized by section 813 (a) (1) for gift tax paid under the Revenue Act of 1924 in respect of property included in the gross estate. If the decedent died on or before October 21, 1942, such credit may not exceed the total amount of the basic estate tax; if the decedent died after such date, such credit may not exceed the amount of such estate tax after deduction of the credit allowed, if any, for estate, inheritance, legacy, or succession taxes paid to any State or Territory, possession of the United States, or the District of Columbia. (See § 81.9.) No credit for gift tax paid under the Revenue Act of 1924 is allowable against the additional estate tax imposed by section 935.

If only a part of the property included for the purpose of the gift tax imposed for a certain calendar year under the Revenue Act of 1924 is also included in the decedent's gross estate for the purpose of the estate tax, the gift tax paid in respect of such part of the property is an amount which bears the same ratio to the total gift tax paid for such calendar year as the value of such part of the property bears to the total amount of gifts included for the purpose of the gift tax imposed for such year. For the purpose of computing this proportion, the values finally determined for the purpose of the gift tax will control.

(c) *Credit for gift tax paid under chapter 4 of the Internal Revenue Code or under the Revenue Act of 1932*—(1) *In general.* Credit against both the basic estate tax imposed by section 810 or section 860 and the additional estate tax imposed by section 935 is authorized by sections 813 (a) (2) and 936 (b) for gift tax paid under chapter 4 of the Code or under the Revenue Act of 1932 in respect of property included in the gross estate.

The credit is allowable even though the gift tax is paid by the executor after the decedent's death and the amount of the gift tax is deductible from the gross estate as a debt of the decedent.

The credit under this paragraph in respect of any gift included in the gross estate is limited to the smaller of the following amounts:

(i) The amount of gift tax paid in respect of such gift, computed as set forth under subparagraph (2) of this paragraph.

(ii) The amount of the basic and additional estate taxes attributable to such gift, computed as set forth under subparagraph (3) of this paragraph.

Where more than one gift is included in the gross estate of a decedent dying after December 31, 1947, a separate computation of the two limitations on the credit is to be made with respect to each gift.

(2) *First limitation.* If only one gift was made during a certain calendar year, and such gift is wholly included in the decedent's gross estate for the purpose of the estate tax, the credit with respect to such gift is limited to the amount of the gift tax paid for such calendar year. If more than one gift was made during a certain calendar year, the credit with respect to any such gift which is included in the decedent's gross estate for the purpose of the estate tax is limited to an amount A, which bears the same ratio to B (the total gift tax paid for such calendar year) as C (the amount of such gift, reduced by any portion of such amount excluded under section 1003 (b) of the Code or section 504 (b) of the Revenue Act of 1932 or deducted under section 1004 (a) (2) or (3) of the Code or section 505 (a) (2) of the Revenue Act of 1932) bears to D (the total amount of net gifts for such year, computed without deduction of the

specific exemption). The values finally determined for the purpose of the gift tax are to be used in computing this ratio, irrespective of the values determined for the purpose of the estate tax. A like computation is to be made in case only a portion of any gift is included in the decedent's gross estate for the purpose of the estate tax.

Example. A donor, who had used $20,000 specific exemption in prior years, made gifts during the calendar year 1948 on which gift tax was determined as shown below:

Gift of property to son on Feb. 1	$13,000
Gift of property to wife on May 1	86,000
Gift to charitable organization on May 15	10,000
Total gifts	109,000
Less exclusions ($3,000 for each gift)	$9,000
Total included amount of gifts	100,000
Marital deduction (for gift to wife)	$43,000
Charitable deduction	7,000
Specific exemption	10,000
Total deductions	60,000
Net gifts	40,000
Total gift tax paid for calendar year 1948	3,600

The donor's gift to his wife was made in contemplation of death and is thereafter included in his gross estate for the purpose of the estate tax. Under the "first limitation", the credit with respect to such gift cannot exceed

$$\frac{\$40{,}000 \text{ (gift to wife, less \$3,000 exclusion and \$43,000 marital deduction)}}{\$50{,}000 \text{ (total amount of net gifts increased by specific exemption allowed)}} \times \$3{,}600 \text{ (gift tax paid)} = \$2{,}880.$$

(3) *Second limitation.* The credit with respect to any gift of property included in the gross estate for the purpose of the estate tax is also limited to an amount, E, which bears the same ratio to F (the total gross basic and additional estate taxes, reduced by any credit under paragraph (b) of this section, and, in case the decedent died after October 21, 1942, by any credit under § 81.9) as G (the value, adjusted as hereinafter indicated, of such property transferred by gift and included in the gross estate) bears to H (the value of the entire gross estate, reduced, in case the decedent died after December 31, 1947, by the total deductions allowed under section 812 (d) and (e)). In computing this ratio, the value of the property transferred by gift and included in the gross estate (amount G of the ratio) is the value determined for the purpose of the gift tax or the value determined for the purpose of the estate tax, whichever is lower. Such value (amount G of the ratio) does not include the portion, if any, of the gift excluded, under section 1003 (b) of the Code or section 504 (b) of the Revenue Act of 1932, in determining the gift tax. For example: A donor, in contemplation of death, transferred property valued at $100,000 to his five children in 1941 and paid the resulting gift tax. The amount of $20,000 was excluded under the provisions of section 1003 (b) (2), and the amount of $80,000 was included for the purpose of the gift tax. The property is thereafter included in his gross estate for the purpose of the estate tax at a value of $90,000. The lower of the two values ($90,000) is to be used in computing the second limitation. Amount G of the ratio is $72,000, the value

$$\frac{80{,}000}{100{,}000} \times \$90{,}000$$

of the portion of the gift included for the purpose of the gift tax.

If in determining the estate tax in the case of a decedent who died after December 31, 1947, a "marital deduction" under section 812 (e) or a "charitable deduction" under section 812 (d) is allowable for a portion of a particular gift, then in computing the "second limitation" such portion of the gift is not to be included in amount G of the ratio. See §§ 81.47a to 81.47e, relating to the marital deduction, and §§ 81.44 to 81.47, relating to the charitable deduction.) Therefore, if a particular gift is made solely to the decedent's surviving spouse or solely to a charitable, etc., organization, and a deduction under section 812 (d) or (e) is allowed for the full value of the gift, no credit with respect to such gift may be taken. If the gift was (in whole or in part) to the decedent's surviving spouse, and if the aggregate marital deduction allowed is less than the amount of such deduction computed without regard to the limitation stated in § 81.47d, then the portion of the gift which is not to be included in computing the "second limitation" is an amount, I, which bears the same ratio to J (the amount of such gift not excluded in determining the gift tax, and for which a marital deduction would be allowed except for the limitation stated in § 81.47d) as K (the aggregate marital deduction allowed) bears to L (the aggregate marital deduction computed without regard to the limitation stated in § 81.47d).

Example. The facts are the same as in the example in subparagraph (2) of this paragraph of the computation of the "first limitation" with the following additions. The donor was survived by his wife. The value of the donor's gross estate is $350,000. Assume that a marital deduction of $150,000 is actually allowed in determining the net estate, and that the amount of such deduction computed without regard to the limitation under section 81.47d is $250,000. There is no charitable deduction allowed in this example for the purpose of the estate tax. The total basic and additional estate taxes less the credit allowed under § 81.9 amount to $17,500. No credit under paragraph (b) of this section is allowed in this example. The property given by the donor to his wife is included in the gross estate at a value of $90,000, and is property for which a marital deduction may be taken. The value of $86,000 determined for the purpose of the gift tax is lower than such value determined for the purpose of the estate tax and is, therefore, to be used in computing the "second limitation", as shown below:

Portion of gift included for the purpose of the gift tax ($86,000 less $3,000 exclusion) ... $83,000

Portion of gift so included and for which a marital deduction is allowed in determining the estate tax—

$$\frac{\$150{,}000 \text{ (marital deduction allowed for purpose of estate tax)}}{\$250{,}000 \text{ (marital deduction computed without regard to limitation under § 81.47d)}} \times \$83{,}000 \text{ (portion of gift so included and for which a marital deduction would be allowed in full except for limitation under § 81.47d)} = 49{,}800$$

Portion of gift to be used in computing the "second limitation" ($83,000 less $49,800) ... 33,200

"Second limitation" upon the credit with respect to such gift—

$$\frac{\$33{,}200}{\$200{,}000 \text{ (gross estate less marital and charitable deductions)}} \times \$17{,}500 \text{ (total basic and additional taxes less credit under § 81.9)} = 2{,}905$$

Since the amount of the "first limitation" upon the credit ($2,880) is lower, such amount is the allowable credit.

(4) *Credit for "split gifts".* Where the decedent made a gift of property which is thereafter included in his gross estate, and, under the provisions of section 1000 (f), such gift was considered for the purpose of the gift tax as made one-half by the decedent and one-half by his spouse, credit against the estate tax is authorized for the gift tax paid with respect to both halves of the gift. The "first limitation" is to be separately computed with respect to each half of the gift. For example: A donor, in contemplation of death, transferred property valued at $106,000 to his son on June 1, 1948, and he and his wife consented that the gift should be considered as made one-half by him and one-half by his wife. Assume that the property is thereafter included in the donor's gross estate for the purpose of the estate tax. Under the "first limitation" the amount of the gift tax of the donor paid with respect to the half of the gift considered as made by him is determined to be $11,250, and the amount of the gift tax of his wife paid with respect to the half of the gift considered as made by her is determined to be $1,200. Under the "second limitaton" the amount of estate tax attributable to the property is determined to be $28,914. The credit allowed ($11,250 plus $1,200) is $12,450.

(5) *Allocation of credit.* The amount computed under the lower of the two limitations is the total credit authorized with respect to the gift against both the basic and additional estate taxes. The amount of such credit authorized against the basic estate tax is the lower of (i) the amount computed under the "first limitation" and (ii) the amount of the basic estate tax attributable to the gift, computed in the manner described under the "second limitation". The amount of such credit authorized against the additional estate tax is the lower of (a) the amount computed under the "first lim-

itation" less the credit allowed against the basic estate tax and (*b*) the amount of the additional estate tax attributable to the gift, computed in the manner described under the "second limitation".

PAR. 4. There is inserted immediately preceding § 81.11 the following:

SEC. 364. (REVENUE ACT OF 1948) OPTIONAL VALUATION

(a) The last sentence of section 811 (j) of the Internal Revenue Code (relating to optional valuation) is hereby amended to read as follows: "In case of an election made by the executor under this subsection, then:

(A) for the purposes of the deduction under section 812 (d) or section 861 (a) (3), any bequest, legacy, devise, or transfer enumerated therein, and

(B) for the purposes of the deduction under section 812 (e), any interest in property passing to the surviving spouse,

shall be valued as of the date of the decedent's death with adjustment for any difference in value (not due to mere lapse of time or the occurrence or nonoccurrence of a contingency) of the property as of the date one year after the decedent's death (substituting, in the case of property distributed by the executor or trustee, or sold, exchanged, or otherwise disposed of, during such one-year period, the date thereof)."

(b) The amendment made by this section shall be applicable only with respect to estates of decedents dying after December 31, 1947.

PAR. 5. Section 81.11 is amended by changing the second sentence of the third paragraph from the end to read as follows: "The amount of any deduction under section 812 (d) or section 861 (a) (3) with respect to property passing to or for public, charitable, religious, etc., uses, or any deduction under section 812 (e) with respect to property passing to the decedent's surviving spouse, shall be determined by the value of such property as of the date of the decedent's death, subject, however, to adjustment for any difference in its value as of the date one year after such death, or as of the date of its distribution, sale, exchange, or other disposition, whichever date first occurs."

PAR. 6. There is inserted immediately after section 401 of the Revenue Act of 1942 (inserted by Treasury Decision 5239), and preceding section 302 (c) of the Revenue Act of 1926 (as originally enacted), which precede § 81.15, the following:

SEC. 351. [REVENUE ACT OF 1948.] REPEAL OF COMMUNITY PROPERTY ESTATE TAX AMENDMENTS

(a) Effective with respect to estates of decedents dying after December 31, 1947, sections 811 (d) (5), 811 (e) (2) and 811 (g) (4) of the Internal Revenue Code (relating to community property) are hereby repealed.

* * * * *

(c) Notwithstanding the repeal of sections 811 (d) (5), 811 (e) (2), and 811 (g) (4) provided in subsection (a), the taxes imposed under chapter 3 of the Internal Revenue Code upon the transfer of the net estate of any decedent dying after December 31, 1947, and on or before the date of the enactment of this Act shall not exceed the taxes which would have been imposed under such chapter 3 upon such transfer if this section had not been enacted.

PAR. 7. Section 81.15, as amended by Treasury Decision 5239, is further amended as follows:

(A) By inserting immediately after "October 21, 1942," each time it appears in the second paragraph thereof the following: "and on or before December 31, 1947,".

(B) By inserting at the end of such second paragraph the following sentence: "(With respect to estates of decedents dying after December 31, 1947, and on or before April 2, 1948, involving transfers of community property, see § 81.23.)"

PAR. 8. There is inserted immediately preceding § 81.22 the following:

SEC. 351. (REVENUE ACT OF 1948) REPEAL OF COMMUNITY PROPERTY ESTATE TAX AMENDMENTS

(a) Effective with respect to estates of decedents dying after December 31, 1947, sections 811 (d) (5), 811 (e) (2) and 811 (g) (4) of the Internal Revenue Code (relating to community property) are hereby repealed.

(b) Such section 811 (e) is further amended:

(1) by striking out of the heading of such subsection the words "and community"; and

(2) by striking out of paragraph (1) the following: "Joint interests.—".

(c) Notwithstanding the repeal of sections 811 (d) (5), 811 (e) (2), and 811 (g) (4) provided in subsection (a), the taxes imposed under chapter 3 of the Internal Revenue Code upon the transfer of the net estate of any decedent dying after December 31, 1947, and on or before the date of the enactment of this Act shall not exceed the taxes which would have been imposed under such chapter 3 upon such transfer if this section had not been enacted.

PAR. 9. Section 81.22, as amended by Treasury Decision 5239, is further amended as follows:

(A) By inserting immediately after "October 21, 1942," each time it appears in the last paragraph thereof the following: "and on or before December 31, 1947,".

(B) By inserting at the end of such last paragraph the following sentence: "(With respect to estates of decedents dying after December 31, 1947, and on or before April 2, 1948, involving joint tenancies or tenancies by the entirety created by the transfer of community property, see § 81.23.)"

PAR. 10. Section 81.23, as amended by Treasury Decision 5239, is further amended as follows:

(A) By inserting immediately after "October 21, 1942," in the first sentence thereof the following: "and on or before December 31, 1947,".

(B) By striking out the last paragraph and by inserting in lieu thereof the following paragraphs:

§ 81.23 *Community property.* * * *

With respect to estates of decedents dying after October 21, 1942, and on or before December 31, 1947, see the provisions of §§ 81.15, 81.22, and 81.27, relating, respectively, to the inclusion of transfers of community property during life, the treatment of joint tenancies and tenancies by the entirety created by the transfer of community property, and the treatment of insurance upon the decedent's life held as, or acquired with, community property.

In the case of a decedent who died after December 31, 1947, and on or before April 2, 1948, the provisions contained in the first two paragraphs of this section and those provisions of §§ 81.15, 81.22, and 81.27 referred to in the preceding paragraph may have a limited effect. Although such provisions are not applicable for the purpose of determining the value of the decedent's gross estate, the estate tax payable is, nevertheless, not to exceed the estate tax which would be imposed if such provisions were applicable.

PAR. 11. There is inserted immediately preceding § 81.25 the following:

SEC. 351. (REVENUE ACT OF 1948) REPEAL OF COMMUNITY PROPERTY ESTATE TAX AMENDMENTS.

(a) Effective with respect to estates of decedents dying after December 31, 1947, sections 811 (d) (5), 811 (e) (2) and 811 (g) (4) of the Internal Revenue Code (relating to community property) are hereby repealed.

* * * * *

(c) Notwithstanding the repeal of sections 811 (d) (5), 811 (e) (2), and 811 (g) (4) provided in subsection (a), the taxes imposed under chapter 3 of the Internal Revenue Code upon the transfer of the net estate of any decedent dying after December 31, 1947, and on or before the date of the enactment of this Act shall not exceed the taxes which would have been imposed under such chapter 3 upon such transfer if this section had not been enacted.

PAR. 12. Section 81.26 is amended by inserting at the end thereof the following:

§ 81.26 *Insurance in favor of the estate.* * * *

Where the proceeds of insurance made payable to the decedent's estate are community assets under the local community property law, as a result of which one-half of such proceeds belongs to the decedent's spouse and are not subject to the payment of the estate tax or other separate debts or expenses of the decedent or his estate, then only one-half of such insurance is considered to be receivable by the executor within the meaning of section 811 (g) (1).

PAR. 13. Section 81.27, as amended by Treasury Decision 5239, is further amended as follows:

(A) By striking out "this subsection" and "subsection (a)" wherever they appear in such section and by inserting in lieu thereof "this paragraph" and "paragraph (a)".

(B) By changing the heading and first sentence of paragraph (a) to read as follows:

§ 81.27 *Insurance receivable by other beneficiaries*—(a) *In case of decedent dying after December 31, 1947.* The regulations prescribed under this paragraph (except as otherwise indicated in this section) are applicable only in the case of decedents who died after December 31, 1947.

(C) By changing the third undesignated paragraph of paragraph (a) (which undesignated paragraph, prior to the amendment made by (A), began with the words "For the purposes of this paragraph") to read as follows:

For the purposes of this paragraph, where premiums or other consideration

are paid with property held as community property by the decedent and his spouse, the decedent shall (in the absence of additional circumstances showing payment indirectly by the decedent) be deemed to have paid only one-half of such premiums or other consideration. The general rule stated in the preceding sentence is not applicable unless the decedent and his spouse had equal and existing interests in the community property used in the payment of the premiums or other consideration. An example of additional circumstances showing payment indirectly by the decedent which will render inapplicable the general rule is a transfer of property by the decedent to the community for the purpose of purchasing the insurance.

(D) By striking from paragraph (a) the last sentence of the sixth undesignated paragraph (which paragraph begins with the words "For the purposes of (1)").

(E) By changing the third sentence of the last undesignated paragraph of paragraph (a) to read as follows: "For examples of 'incidents of ownership' see paragraph (c) of this section."

(F) By inserting at the end of paragraph (a) the following:

In determining whether the decedent possessed an incident of ownership in a policy, regard must be given to the effect of the State or other applicable law upon the terms of the policy. If the decedent possessed incidents of ownership with respect to insurance solely as manager of the community under the local community property law, and the transfer by his spouse of one-half the amount of the proceeds is not considered absolute prior to the decedent's death, and in the event of the prior death of such spouse one-half of the value of the policy would have been includible in her gross estate, then for the purposes of this paragraph the decedent is considered to have possessed incidents of ownership with respect to only one-half of such insurance.

With respect to estates of decedents dying after December 31, 1947, and on or before April 2, 1948, involving insurance held as community property by the decedent and spouse, or acquired with property so held, see § 81.23.

(b) *In case of decedent dying after October 21, 1942, and on or before December 31, 1947.* The regulations prescribed under this paragraph (except as otherwise indicated in this section) are applicable only in the case of decedents who died after October 21, 1942, and on or before December 31, 1947. In such cases, the regulations prescribed under paragraph (a) of this section with respect to estates of decedents dying after December 31, 1947, are also applicable (except to the extent inconsistent with this paragraph). For the purposes of this paragraph, premiums or other consideration paid with property held as community property by the insured and spouse under the law of any State, Territory, or possession of the United States, or any foreign country, shall be considered to have been paid by the insured, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the decedent's spouse or derived originally from such compensation or from separate property of such spouse. With respect to the meaning of property derived originally from such compensation or from separate property of the decedent's spouse, see § 81.23. Section 811 (g) (4) provides that the term "incidents of ownership" includes incidents of ownership possessed by the decedent as manager of the community where the insurance policy is property held as community property by the decedent and spouse.

(G) By striking out the heading and first sentence of the original paragraph (b) and by inserting in lieu thereof the following:

(c) *In case of decedent dying on or before October 21, 1942.* The regulations prescribed under this paragraph (except as otherwise indicated in this section) are applicable only in the case of decedents who died on or before October 21, 1942.

PAR. 14. There is inserted immediately preceding § 81.41 the following:

SEC. 362. (REVENUE ACT OF 1948.) PROPERTY PREVIOUSLY TAXED

(a) Section 812 (c) of the Internal Revenue Code (relating to the deduction for property previously taxed) is hereby amended by adding after the first paragraph two new paragraphs to read as follows:

The following property shall not, for the purposes of this subsection, be considered as property with respect to which a deduction may be allowed: (A) Property received from a prior decedent who died after December 31, 1947, and was at the time of such death the decedent's spouse, (B) property received by gift after the date of the enactment of the Revenue Act of 1948 from a donor who at the time of the gift was the decedent's spouse, and (C) property acquired in exchange for property described in clause (A) or (B).

Where, under the provisions of section 1000 (f), a gift received by the decedent was considered as made one-half by the donor and one-half by the donor's spouse, one-half of the gift shall be considered as received by the decedent from each such spouse.

(b) Section 812 (c) is further amended by striking out "subsections (a) and (d)" and inserting in lieu thereof "subsections (a), (d), and (e)".

PAR. 15. Section 81.41, as amended by Treasury Decision 5239, and by Treasury Decision 5408, approved October 14, 1944, is further amended as follows:

(A) By inserting at the end of paragraph (a) (4) the following sentence: "Where, under the provisions of section 1000 (f), a gift received by the decedent was considered as made one-half by the donor and one-half by the donor's spouse, the deduction may not be taken in respect of the half of the gift considered as made by the donor unless a gift tax was paid by or on behalf of the donor, or in respect of the half of the gift considered as made by the donor's spouse unless a gift tax was paid by or on behalf of such spouse."

(B) By inserting immediately after paragraph (a) (5) the following:

(6) The property (or property given in exchange therefor) must not have been received (by gift or otherwise) from a prior decedent who died after December 31, 1947, and was at the time of such death the decedent's spouse, and must not have been received by gift after April 2, 1948, from a donor who at the time of the gift was the decedent's spouse. This rule, added by section 362 of the Revenue Act of 1948, is effective even though the decedent (surviving spouse) died after December 31, 1947, and on or before April 2, 1948; but the estate tax payable by the estate of such spouse is nevertheless, not to exceed the estate tax which would have been imposed if the Revenue Act of 1948 had not been enacted.

(C) By striking from the second sentence of paragraph (b) (3) "subsections (a) and (d)" and by inserting in lieu thereof the following: "subsections (a), (d), and (e)".

(D) By inserting in the next to the last paragraph, immediately after that sentence thereof which reads in part "Second: The balance of $12,800", the following sentence: "(The deduction under section 812 (e) is not involved in this example.)".

PAR. 16. There is inserted immediately after § 81.47 the following:

DEDUCTIONS—BEQUESTS, ETC., TO SURVIVING SPOUSE

SEC. 812. (Part II, Subchapter A.) NET ESTATE.

For the purpose of the tax the value of the net estate shall be determined, in the case of a citizen or resident of the United States by deducting from the value of the gross estate:

* * * * *

(e) (As added by section 361 (a) of the Revenue Act of 1948, enacted April 2, 1948, and amended by Public Law 869, 80th Congress, approved July 1, 1948) Bequests, etc., to surviving spouse:

(1) *Allowance of marital deduction*—(A) *In general.* An amount equal to the value of any interest in property which passes or has passed from the decedent to his surviving spouse, but only to the extent that such interest is included in determining the value of the gross estate.

(B) *Life estate or other terminable interest.* Where, upon the lapse of time, upon the occurrence of an event or contingency, or upon the failure of an event or contingency to occur, such interest passing to the surviving spouse will terminate or fail, no deduction shall be allowed with respect to such interest:

(i) If an interest in such property passes or has passed (for less than an adequate and full consideration in money or money's worth) from the decedent to any person other than such surviving spouse (or the estate of such spouse); and

(ii) If by reason of such passing such person (or his heirs or assigns) may possess or enjoy any part of such property after such termination or failure of the interest so passing to the surviving spouse;

and no deduction shall be allowed with respect to such interest (even if such deduction is not disallowed under clauses (i) and (ii))—

(iii) If such interest is to be acquired for the surviving spouse, pursuant to directions of the decedent, by his executor or by the trustee of a trust.

For the purposes of this subparagraph, an interest shall not be considered as an interest which will terminate or fail merely because it is the ownership of a bond, note, or similar contractual obligation, the discharge of

which would not have the effect of an annuity for life or for a term.

(C) *Interest in unidentified assets.* Where the assets (included in the decedent's gross estate) out of which, or the proceeds of which, an interest passing to the surviving spouse may be satisfied include a particular asset or assets with respect to which no deduction would be allowed if such asset or assets passed from the decedent to such spouse, then the value of such interest passing to such spouse shall, for the purposes of subparagraph (A), be reduced by the aggregate value of such particular assets.

(D) *Interest of spouse conditional on survival for limited period.* For the purposes of subparagraph (B) an interest passing to the surviving spouse shall not be considered as an interest which will terminate or fail upon the death of such spouse if:

(i) Such death will cause a termination or failure of such interest only if it occurs within a period not exceeding six months after the decedent's death, or only if it occurs as a result of a common disaster resulting in the death of the decedent and the surviving spouse, or only if it occurs in the case of either such event; and

(ii) Such termination or failure does not in fact occur.

(E) *Valuation of interest passing to surviving spouse.* In determining for the purposes of subparagraph (A) the value of any interest in property passing to the surviving spouse for which a deduction is allowed by this subsection:

(i) There shall be taken into account the effect which a tax imposed by this chapter, or any estate, succession, legacy, or inheritance tax, has upon the net value to the surviving spouse of such interest; and

(ii) Where such interest or property is incumbered in any manner, or where the surviving spouse incurs any obligation imposed by the decedent with respect to the passing of such interest, such incumbrance or obligation shall be taken into account in the same manner as if the amount of a gift to such spouse of such interest were being determined.

(F) *Trust with power of appointment in surviving spouse.* In the case of an interest in property passing from the decedent in trust, if under the terms of the trust this surviving spouse is entitled for life to all the income from the corpus of the trust, payable annually or at more frequent intervals, with power in the surviving spouse to appoint the entire corpus free of the trust (exercisable in favor of such surviving spouse, or of the estate of such surviving spouse, or in favor of either, whether or not in each case the power is exercisable in favor of others), and with no power in any other person to appoint any part of the corpus to any person other than the surviving spouse:

(i) The interest so passing shall, for the purposes of subparagraph (A), be considered as passing to the surviving spouse, and

(ii) No part of the interest so passing shall, for the purposes of subparagraph (B) (1), be considered as passing to any person other than the surviving spouse.

This subparagraph shall be applicable only if, under the terms of the trust, such power in the surviving spouse to appoint the corpus, whether exercisable by will or during life, is exercisable by such spouse alone and in all events.

(G) *Life insurance or annuity payments with power of appointment in surviving spouse.* In the case of an interest in property passing from the decedent consisting of proceeds under a life insurance, endowment, or annuity contract, if under the terms of the contract such proceeds are payable in installments or are held by the insurer subject to an agreement to pay interest thereon (whether the proceeds, upon the termination of any interest payments, are payable in a lump sum or in annual or more frequent installments), and such installment or interest payments are payable annually or at more frequent intervals, commencing not later than thirteen months after the decedent's death, and all amounts payable during the life of the surviving spouse are payable only to such spouse, and such spouse has the power to appoint all amounts payable under such contract (exercisable in favor of such surviving spouse, or of the estate of such surviving spouse, or in favor of either, whether or not in each case the power is exercisable in favor of others), with no power in any other person to appoint to any person other than the surviving spouse any part of the amounts payable under such contract:

(i) Such proceeds shall, for the purposes of subparagraph (A), be considered as passing to the surviving spouse, and

(ii) No part of such proceeds shall, for the purposes of subparagraph (B) (1), be considered as passing to any person other than the surviving spouse.

This subparagraph shall be applicable only if, under the terms of the contract, such power in the surviving spouse to appoint, whether exercisable by will or during life, is exercisable by such spouse alone and in all events.

(H) *Limitation on aggregate of deductions.* The aggregate amount of the deductions allowed under this paragraph (computed without regard to this subparagraph) shall not exceed 50 per centum of the value of the adjusted gross estate, as defined in paragraph (2).

(2) *Computation of adjusted gross estate*—(A) *General rule.* Except as provided in subparagraph (B) of this paragraph the adjusted gross estate shall, for the purposes of paragraph (1) (H), be computed by subtracting from the entire value of the gross estate the aggregate amount of the deductions allowed by subsection (b) of this section.

(B) *Special rule in cases involving community property.* If the decedent and his surviving spouse at any time held property as community property under the law of any State, Territory, or possession of the United States, or of any foreign country, then the adjusted gross estate shall, for the purposes of paragraph (1) (H), be determined by subtracting from the entire value of the gross estate the sum of:

(i) The value of property which is at the time of the death of the decedent held as such community property; and

(ii) The value of property transferred by the decedent during his life, if at the time of such transfer the property was held as such community property; and

(iii) The amount receivable as insurance under policies upon the life of the decedent to the extent purchased with premiums or other consideration paid out of property held as such community property; and

(iv) An amount which bears the same ratio to the aggregate of the deductions allowed under subsection (b) of this section which the value of the property included in the gross estate, diminished by the amount subtracted under clauses (i), (ii), and (iii) of this subparagraph, bears to the entire value of the gross estate.

For the purposes of clauses (i), (ii), and (iii) community property (except property which is considered as community property solely by reason of the provisions of subparagraph (C) of this paragraph) shall be considered as not "held as such community property" as of any moment of time, if, in case of the death of the decedent at such moment, such property (and not merely one-half thereof) would be or would have been includible in determining the value of his gross estate without regard to the provisions of section 811 (e) (2). The amount to be subtracted under clause (i), (ii), or (iii) shall not exceed the value of the interest in the property described therein which is included in determining the value of the gross estate.

(C) *Same; conversion into separate property.* (i) If during the calendar year 1942 or after the date of the enactment of the Revenue Act of 1948, property held as such community property (unless considered by reason of subparagraph (B) of this paragraph as not so held) was by the decedent and the surviving spouse converted, by one transaction or a series of transactions, into separate property of the decedent and his spouse (including any form of co-ownership by them), the separate property so acquired by the decedent and any property acquired at any time by the decedent in exchange therefor (by one exchange or a series of exchanges) shall, for the purposes of clauses (i), (ii), and (iii) of subparagraph (B), be considered as "held as such community property".

(ii) Where the value (at the time of such conversion) of the separate property so acquired by the decedent exceeded the value (at such time) of the separate property so acquired by the decedent's spouse, the rule in clause (i) shall be applied only with respect to the same portion of such separate property of the decedent as the portion which the value (as of such time) of such separate property so acquired by the decedent's spouse is of the value (as of such time) of the separate property so acquired by the decedent.

(3) *Definition.* For the purposes of this subsection an interest in property shall be considered as passing from the decedent to any person if and only if:

(A) Such interest is bequeathed or devised to such person by the decedent; or

(B) Such interest is inherited by such person from the decedent; or

(C) Such interest is the dower or curtesy interest (or statutory interest in lieu thereof) of such person as surviving spouse of the decedent; or

(D) Such interest has been transferred to such person by the decedent at any time; or

(E) Such interest was, at the time of the decedent's death, held by such person and the decedent (or by them and any other person) in joint ownership with right of survivorship; or

(F) The decedent had a power (either alone or in conjunction with any person) to appoint such interest and if he appoints or has appointed such interest to such person, or if such person takes such interest in default upon the release or nonexercise of such power; or

(G) Such interest consists of proceeds of insurance upon the life of the decedent receivable by such person.

Except as provided in subparagraph (F) or (G) of paragraph (1), where at the time of the decedent's death it is not possible to ascertain the particular person or persons to whom an interest in property may pass from the decedent, such interest shall, for the purposes of clauses (i) and (ii) of subparagraph (B) of paragraph (1), be considered as passing from the decedent to a person other than the surviving spouse.

(4) *Disclaimers*—(A) *By surviving spouse.* If under this subsection an interest would, in the absence of a disclaimer by the surviving spouse, be considered as passing from the decedent to such spouse, and if a disclaimer of such interest is made by such spouse, then such interest shall, for the purposes of this subsection, be considered as passing to the person or persons entitled to receive such interest as a result of the disclaimer.

(B) *Disclaimer by any other person.* If under this subsection an interest would, in the absence of a disclaimer by any person other than the surviving spouse, be considered as passing from the decedent to such

person, and if a disclaimer of such interest is made by such person and as a result of such disclaimer the surviving spouse is entitled to receive such interest, then such interest shall, for the purposes of this subsection, be considered as passing, not to the surviving spouse, but to the person who made the disclaimer, in the same manner as if the disclaimer had not been made.

SEC. 361. (REVENUE ACT OF 1948) MARITAL DEDUCTION

* * * * *

(b) The amendment made by subsection (a) of this section shall be applicable only with respect to estates of decedents dying after December 31, 1947.

JOINT RESOLUTION. (PUBLIC LAW 869, EIGHTIETH CONGRESS, SECOND SESSION, APPROVED JULY 1, 1948)

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SEC. 2. The amendment made by this joint resolution shall be applicable with respect to estates of decedents dying after December 31, 1947.

§ 81.47a *Bequests, etc., to surviving spouse*—(a) *Allowance of marital deduction.* In the case of the estate of a citizen or resident of the United States dying after December 31, 1947, there may be deducted the value of any property interest (except as otherwise provided in §§ 81.47b and 81.47d) which passed from the decedent to his surviving spouse. Such deduction is hereinafter referred to as the "marital deduction." The marital deduction is generally not available in case the decedent's gross estate consists exclusively of property held by him and his surviving spouse as community property under the law of any State, Territory, or possession of the United States, or any foreign country. (See § 81.47d.) The Internal Revenue Code does not authorize a marital deduction in the case of the estate of a nonresident not a citizen of the United States. However, if the decedent was a citizen or resident, his estate is not deprived of the right to the marital deduction by reason of the fact that his surviving spouse was a nonresident not a citizen.

If the order of deaths of the decedent and his spouse cannot be established by proof and the effect of the applicable presumption of survivorship is to give to such spouse an interest in property within the meaning of section 811 (a) such interest will also be considered as having passed to the decedent's surviving spouse for the purpose of the marital deduction.

For convenience the surviving spouse is generally referred to in the feminine gender, but the application of the statute is not so limited.

(b) *Definitions*—(1) *Passed from the decedent.* As used in this and the three succeeding sections, the expressions "passed from the decedent", "passed from the decedent to his surviving spouse", and "passed from the decedent to a person other than his surviving spouse", have the meanings stated in this paragraph. Except as otherwise indicated in subparagraphs (2) and (3) of this paragraph, the following rules are applicable in determining the person to whom any property interest "passed from the decedent":

(i) Property interests devolving upon any person (or persons) as surviving coowner with the decedent under any joint ownership wherein the right of survivorship existed are considered as having passed from the decedent to such person (or persons).

(ii) Property interests at any time subject to decedent's power to appoint (whether alone or in conjunction with any person) are considered as having passed from the decedent to the appointee under his exercise of the power, or, in case of release or nonexercise, as having passed from the decedent to the taker in default of exercise.

(iii) The dower or curtesy interest (or statutory interest in lieu thereof) of the decedent's surviving spouse is considered as having passed from the decedent to such spouse.

(iv) In the case of insurance upon the life of the decedent, the proceeds are considered as having passed from the decedent to the person who, at the time of the decedent's death, was entitled to receive such proceeds.

(v) Property interests at any time beneficially held by the decedent are, unless otherwise stated above, considered as having passed from the decedent to the person to whom he transferred such interest during his life, or to whom he bequeathed or devised such interest, or to the person who inherited such interest from him.

It is comprehended by the foregoing definition that a property interest held by or devolving upon the surviving spouse under community property laws is considered as having passed from the decedent to such spouse to the extent that such interest was, immediately prior to the decedent's death, a mere expectancy. As to the circumstances under which the interest of the surviving spouse under community property laws is regarded as merely expectant, see paragraph (b) of § 81.47d.

(2) *Passed from the decedent to his surviving spouse.* In general, the definition stated in subparagraph (1) of this paragraph is applicable in determining the property interests which "passed from the decedent to his surviving spouse". Special rules are provided, however, in the case of certain trusts with power of appointment in the surviving spouse and in the case of proceeds held by the insurer under a life insurance, endowment, or annuity contract, with power of appointment in the surviving spouse. (As to such rules, see paragraphs (c) and (d) of this section.) As to the rules applicable in case of disclaimer by the surviving spouse or by any other person, in case of election by the surviving spouse, and in case of a controversy involving the decedent's will, see paragraphs (e) to (g), of this section.

Except to the extent otherwise provided in paragraphs (c) and (d) of this section, the marital deduction may be taken with respect to a property interest only if it passed to the surviving spouse as beneficial owner. For this purpose, where a property interest passed from the decedent in trust, such interest is considered to have passed from him to his surviving spouse to the extent of her beneficial interest therein. The deduction may not be taken with respect to a property interest which passed to such spouse merely as trustee, or subject to an agreement by such spouse to dispose of such interest in favor of a third person.

Where the decedent provided that, following the death of his surviving spouse, a certain property interest was to go to her estate, or to her executors or administrators, and the effect of the local law is that such property interest may be bequeathed or devised by such spouse in favor of whomsoever she pleases, and, in the event of her intestacy, will pass to her heirs or next of kin, such property interest is to be considered as having "passed from the decedent to his surviving spouse". But such property interest is not to be considered as having so passed in case the surviving spouse entered into an agreement with the decedent to dispose of it in favor of particular objects.

(3) *Passed from the decedent to a person other than his surviving spouse.* The expression "passed from the decedent to a person other than his surviving spouse" refers to any property interest which, under the definition stated in subparagraph (1) of this paragraph, is considered as having "passed from the decedent" and which, under the rules referred to in subparagraph (2) of this paragraph, is not considered as having "passed from the decedent to his surviving spouse".

(c) *Trust with power of appointment in surviving spouse.* In the case of property interests which passed from the decedent to a trust, the terms of which satisfy the five conditions stated in this paragraph, the expression "passed from the decedent to his surviving spouse" embraces not only the beneficial interest therein of such spouse but also the interest therein subject to her power to appoint. (As to the treatment of trusts not meeting such conditions, see paragraph (b) (2) of this section.) The five conditions which must be satisfied by the terms of the trust are as follows:

(1) The surviving spouse must be entitled for life to all the income from the corpus of the trust.

(2) Such income must be payable annually or at more frequent intervals.

(3) The surviving spouse must have the power, exercisable in favor of herself or of her estate, to appoint the entire corpus free of the trust.

(4) Such power in the surviving spouse must be exercisable by such spouse alone and (whether exercisable by will or during life) must be exercisable in all events.

(5) The corpus of the trust must not be subject to a power in any other person to appoint any part thereof to any person other than the surviving spouse.

In determining whether the above-stated conditions (1) to (5), are satisfied by the terms of the trust, regard is to be had to the applicable provisions of the law of the jurisdiction governing the administration of the trust. For example, silence of the trust as to the frequency of payment will not be regarded as a failure to satisfy condition (2) in case the applicable law requires payment to be made annually or more frequently.

The surviving spouse is "entitled for life to all the income from the corpus of the trust", within the meaning of section 812 (e) (1) (F), if the effect of the trust is to give her substantially that degree

of beneficial enjoyment of the trust property during her life which the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust. Such degree of enjoyment is given only if it was the decedent's intention, as manifested by the terms of the trust instrument and the surrounding circumstances, that the trust should produce for the surviving spouse during her life such a periodically distributable income, or that the spouse should have such use of the trust property, as is consistent with the value of the trust corpus and with its preservation. The designation of the spouse as sole income beneficiary for life will be sufficient to qualify the trust unless the terms of the trust considered as a whole evidence an intention to deprive the spouse of the requisite degree of enjoyment. In determining whether a trust evidences such intention the treatment required or permitted with respect to individual items must be considered in relation to the entire system provided for the administration of the trust.

If the over-all effect of the trust is to give to the surviving spouse such enforceable rights as will preserve to her the requisite degree of enjoyment, it is immaterial whether such result is effected by rules specifically stated in the trust instrument, or in their absence, by the rules for the management of the trust property and the allocation of receipts and expenditures supplied by the State law. For example, where the State law does not provide for amortization of bond premium, a provision in the trust instrument for such amortization by appropriate periodic charges to interest will not disqualify the trust.

Provisions granting administrative powers to the trustee will not have the effect of disqualifying the trust unless the grant of such powers evidences the intention to deprive the surviving spouse of the beneficial enjoyment required by the statute. Such intention will not be considered to exist if the entire terms of the instrument are such that the local courts will impose reasonable limitations upon the exercise of such powers. Among the powers which if subject to such limitations will not disqualify the trust are the power to allocate receipts between income and corpus, the power to determine the charges which shall be made against income and corpus, and the power to apply the income for the benefit of the surviving spouse.

The rules to be applied by the trustee in allocation of receipts and expenses between income and corpus must be considered in relation to the nature and expected productivity of the trust assets, the nature and frequency of occurrence of the expected receipts, and any provisions as to change in the form of investments. Where it is evident from the nature of the trust assets and the rules provided for management of the trust that the allocation to income of such receipts as rents, cash dividends and interest will give to the spouse the substantial enjoyment during life required by the statute, provisions that such receipts as stock dividends and proceeds from the conversion of trust assets shall be treated as corpus will not disqualify the trust. Similarly, provision for a depletion charge against income in the case of trust assets which are subject to depletion will not disqualify the trust, unless the effect is to deprive the spouse of the requisite beneficial enjoyment. A power in the trustee to retain unproductive property will not disqualify if the applicable rules for the administration of the trust require that the property be converted within a reasonable time and that income be given the spouse to compensate for undue delay in such conversion. A power to retain a residence for the spouse or other property for her personal use will not disqualify the trust.

A trust will not qualify if its primary purpose is to safeguard property without providing the spouse with the required beneficial enjoyment. An example is a trust the corpus of which consists substantially of unproductive property which the trustee is required to retain without furnishing a reasonable compensation to the spouse on account of the nonconversion of such property.

If the surviving spouse is entitled to only a portion of the trust income, or has power to appoint only a portion of the corpus, the trust fails to satisfy conditions (1) and (3), respectively. However, such conditions may be satisfied by one or more of several separate trusts created by the decedent. An undivided interest in property may constitute the corpus of a trust, and the will or a single trust instrument may create more than one trust.

In the case of a trust created during the decedent's life, it is sufficient if the trust satisfies conditions (1) to (5), as of the time of the decedent's death, irrespective of whether the surviving spouse was entitled to the trust income, or was able to exercise a power of appointment over the corpus, during the decedent's life. In the case of a trust which may be terminated during the life of the surviving spouse, under her exercise of a power of appointment or by distribution of the corpus to her, the trust satisfies condition (1) if such spouse is entitled to the income until the trust terminates.

A trust fails to satisfy condition (1) if the income is required to be accumulated in whole or in part or may be accumulated in the discretion of any person other than the surviving spouse, if the consent of any person other than the surviving spouse is required as a condition precedent to distribution of the income, if any person other than the surviving spouse has the power to alter the terms of the trust so as to deprive such spouse of her right to the income, or if any person other than the surviving spouse is entitled to any part of the income during the life of such spouse. A trust will not fail to satisfy condition (1) merely because its terms provide that the right of the surviving spouse to the income shall not be subject to assignment, alienation, pledge, attachment or claims of creditors.

The terms "entitled for life" and "payable annually or more frequently", as used in conditions (1) and (2), require that under the terms of the trust the income referred to must be currently (at least annually) distributable to the spouse or that she must have such command over the income that it is virtually hers. Thus, conditions (1) and (2) are satisfied in this respect if, under the terms of the trust instrument, the spouse has the right exercisable annually (or more frequently) to require distribution to herself of the trust income, and otherwise the trust income is to be accumulated and added to corpus. Similarly, as respects the income for the period between the last distribution date and the date of the spouse's death, it is sufficient if such income is subject to the spouse's power to appoint.

A trust created under the decedent's will is not to be regarded as failing to satisfy conditions (1) and (2) merely because income payments to the surviving spouse are not to commence in advance of the distribution of the trust property to the trustee by the executor, unless the executor is authorized or directed to delay distribution to the trustee beyond the period reasonably required for administration of the estate.

In order to satisfy condition in (3), the power of the surviving spouse to appoint the entire corpus free of the trust must fall within one of the following categories:

(i) A power so to appoint exercisable in her own favor at any time during life (as, for example, on unlimited power to invade).

(ii) A power so to appoint exercisable in favor of her estate.

(iii) A combination of the powers described under subdivisions (i) and (ii). For example, the surviving spouse may until she attains the age of 50 years have a power to appoint to herself and thereafter have a power to appoint to her estate. However, condition (4) is not satisfied unless irrespective of when the surviving spouse may die any amounts remaining unpaid will at the time of her death be subject to one or the other such power.

The power in the surviving spouse must be a power to appoint the corpus to herself as unqualified owner or to appoint the corpus as a part of her estate, that is, to dispose of it to whomsoever she pleases. Thus, if the surviving spouse entered into an agreement with the decedent to exercise the power only in favor of their issue, condition (3) is not met. The trust will not be regarded as failing to satisfy condition (3) merely because takers in default of the surviving spouse's exercise of the power are designated by the decedent. The decedent may provide that, in default of exercise of the power, the trust shall continue for an additional period.

In order for condition (4) to be satisfied, the power in the surviving spouse to appoint the corpus to herself or to her estate must be exercisable without the joinder or consent of any other person. In addition, such power, if exercisable during her life, must be fully exercisable at any time during life, or, if exercisable by will, must be fully exercisable irrespective of the time of her death. An example of a power which will not satisfy condition (4) is a power exercisable by the spouse unless she shall remarry.

The trust will fail to satisfy condition (5) if the decedent created a power in the trustee, or in another person, to invade

the corpus of the trust for the benefit of any person other than the surviving spouse. However, only powers in other persons which are in opposition to that of the surviving spouse will cause the trust to fail to satisfy condition (5). For example, assume that a decedent created a trust, designating his surviving spouse as income beneficiary for life and as donee of a power to appoint the corpus. The decedent further provided that in the event the surviving spouse should die without having exercised the power, the trust should continue for the life of his son with power in such son to appoint the corpus. Since the power in the son could become exercisable only after the death of the surviving spouse, the trust is not regarded as failing to satisfy condition (5).

(d) *Proceeds held by the insurer under a life insurance, endowment, or annuity contract, with power of appointment in surviving spouse.* Section 812 (e) (1) (G), as amended by Public Law 869, 80th Congress, provides a special rule in the case of a property interest which passed from the decedent in the form of proceeds held by the insurer under a life insurance, endowment, or annuity contract, the terms of which satisfy the five conditions hereinafter stated. With respect to such proceeds, the expression "passed from the decedent to his surviving spouse" embraces not only the interest of such spouse under the contract but also the interest thereunder subject to her power to appoint. The five conditions which must be satisfied by the terms of the contract are as follows:

(1) The surviving spouse must be entitled to all amounts payable under such contract during her life.

(2) The proceeds must be held by the insurer subject to an agreement either to pay the proceeds in installments, or to pay interest thereon, annually, or more frequently, commencing not later than 13 months after the decedent's death.

(3) The surviving spouse must have the power, exercisable in favor of herself or of her estate, to appoint all amounts held by the insurer under such contract.

(4) Such power in the surviving spouse must be exercisable by such spouse alone and (whether exercisable by will or during life) must be exercisable in all events.

(5) The amounts payable under such contract must not be subject to a power in any other person to appoint any part thereof to any person other than the surviving spouse.

The provisions of section 812 (e) (1) (G), as amended, are applicable with respect to a property interest which passed from the decedent to his surviving spouse, in the form of proceeds of a policy of insurance upon the decedent's life, a policy of insurance upon the life of a person who predeceased the decedent, a matured endowment policy, or an annuity contract, but only in case such proceeds are to be held by the insurer. With respect to proceeds under any such contract which are to be held by a trustee, see paragraphs (b) and (c) of this section. As to the treatment of proceeds of contracts not meeting the above five conditions, see paragraph (b) (1) (iv) of this section.

In the case of a life insurance, endowment, or annuity contract, under which payments by the insurer did not commence until after the decedent's death, the above-stated conditions (1) to (5), are not satisfied unless all amounts payable under the contract are either payable to the surviving spouse or subject to her power to appoint. However, in the case of a contract under which payments by the insurer commenced prior to the decedent's death, it is sufficient if conditions (1) to (5), became effective upon the decedent's death, with respect to the entire amount of proceeds then remaining in the hands of the insurer.

Conditions (1) and (2) are satisfied if, under the terms of the contract, the spouse has the right exercisable annually (or more frequently) to require distribution to herself of installments of the proceeds, or interest on the proceeds, as the case may be, and otherwise such installments or interest is to be accumulated and held by the insurer pursuant to the terms of the contract. The requirement that payment must commence "not later than thirteen months after the decedent's death" will not be considered as violated solely by reason of a provision that proof of death must be submitted before the first payment is made, except in cases involving unreasonable delay in submission of such proof. Condition (2) is satisfied where interest on the proceeds is payable, annually or more frequently, for a term, or until the occurrence of a specified event, following which the proceeds are to be paid in annual or more frequent installments.

In determining whether the terms of the contract satisfy conditions (3), (4), and (5), the principles stated in paragraph (c) of this section are applicable.

It is sufficient for the purposes of condition (3) if the surviving spouse has the unqualified power, exercisable in favor of herself or her estate, to appoint all amounts held by the insurer which are payable after her death. Such power to appoint need not extend to installments or interest which will be paid to such spouse during her life. An example of a power which is not exercisable by the surviving spouse in all events, as required under condition (4), is a power under a policy of insurance on the decedent's life which may not be effectively exercised by such spouse unless she is living at the time the insurer receives proof of the death of the insured.

(e) *Effect of disclaimer.* Section 812 (e) (4) (A) provides that where the surviving spouse makes a disclaimer of any property interest which would otherwise be considered as having passed from the decedent to such spouse, such disclaimed interest is to be considered as having passed from the decedent to the person or persons entitled to receive such interest as a result of the disclaimer. A disclaimer is a complete and unqualified refusal to accept the rights to which one is entitled. It is, therefore, necessary, for the purpose of section 812 (e) (4) (A), to distinguish between the surviving spouse's disclaimer of a property interest and her acceptance and subsequent disposal of a property interest. For example, if proceeds of insurance are payable to the surviving spouse and she refuses such proceeds which consequently pass to an alternative beneficiary designated by the decedent, the provisions of section 812 (e) (4) (A) are applicable and the proceeds are considered as having passed from the decedent to the alternative beneficiary. On the other hand, if the surviving spouse directs the insurance company to hold the proceeds at interest during her life and, upon her death, to pay the principal sum to another person designated by her, thus effecting a transfer of a remainder interest therein, such proceeds are considered as having passed from the decedent to such spouse.

However, under the provisions of section 812 (e) (4) (B), it is unnecessary to distinguish, for the purposes of this section, between a disclaimer by a person other than the surviving spouse and a transfer by such person. Such section provides that where the surviving spouse becomes entitled to receive an interest in property from the decedent as a result of a disclaimer made by some other person, such interest is, nevertheless, considered as having passed from the decedent, not to the surviving spouse, but to the person who made the disclaimer, as though the disclaimer had not been made. Where, as a result of a disclaimer made by a person other than the surviving spouse, a property interest passes to a trust which meets the conditions set forth in paragraph (c) of this section, the rule stated in the preceding sentence applies, not only with respect to the portion of such interest which beneficially vests in the surviving spouse, but also with respect to the portion over which such spouse acquires a power to appoint. Such rule applies also in the case of proceeds under a life insurance endowment, or annuity contract, which, as a result of a disclaimer made by a person other than the surviving spouse, are held by the insurer subject to the conditions set forth in paragraph (d) of this section.

(f) *Effect of election by surviving spouse.* Where the surviving spouse is obliged to elect between a property interest offered to her under the decedent's will or other instrument and a property interest to which she is entitled (such as dower or a right in the decedent's estate) of which adverse disposition was attempted under such will or other instrument, the property interest which such spouse elects to renounce or relinquish is not considered as having "passed from the decedent to his surviving spouse". As to the valuation of the property interest taken under such an election, see paragraph (b) of § 81.47c.

(g) *Will contests.* If as a result of a controversy involving the decedent's will, or involving a bequest or devise to his surviving spouse, such spouse assigns or surrenders a property interest in settlement of such controversy, the interest so assigned or surrendered is not considered as having "passed from the decedent to his surviving spouse."

If as a result of a controversy involving the will, or involving a bequest or devise to a person other than the surviving spouse, a property interest is assigned or surrendered to such spouse, the interest so acquired will be regarded as having "passed from the decedent to his surviving spouse" only if such assignment or surrender was a bona fide recognition of enforceable rights of the surviving spouse in the decedent's estate. Such a bona fide recognition will be presumed where such assignment or surrender was pursuant to a decision of a local court upon the merits of the case following a genuine and active contest. However, if such assignment or surrender was pursuant to a decree rendered by consent, or pursuant to an agreement not to contest the will or not to probate the will, it will not necessarily be accepted as a bona fide evaluation of the rights of the spouse.

§ 81.47b *Nondeductible interests*—(a) *General.* The property interests which passed from the decedent to his surviving spouse (as set forth in § 81.47a) fall within two general categories: (1) Those with respect to which the marital deduction is authorized, and (2) those with respect to which the marital deduction is not authorized. Such categories are hereinafter referred to as "deductible interests" and "nondeductible interests," respectively. As to the several classes of "nondeductible interests," see paragraphs (b) to (f), of this section. Subject to the limitation set forth in § 81.47d, the marital deduction is equal in amount to the aggregate value of the "deductible interest," that is, the property interests which passed from the decedent to his surviving spouse and do not fall within any of the classes described in such paragraphs (b) to (f) of this section.

(b) *Interests not included in gross estate.* Any property interest which passed from the decedent to his surviving spouse is a "nondeductible interest" to the extent it is not included in the decedent's gross estate.

(c) *Interests with respect to which a deduction is taken under section 812 (b).* Where a deduction is taken under section 812 (b) with respect to any property interest which passed from the decedent to his surviving spouse, such interest is a "nondeductible interest". Thus, a property interest which passed from the decedent to his surviving spouse in satisfaction of a deductible claim of such spouse against the estate is a "nondeductible interest". (See paragraph (b) of § 81.47c.) Or, if a deduction is taken for losses during the settlement of the estate, in respect of any property interest which passed from the decedent to his surviving spouse, such interest is (to the extent of the deductible loss) a "nondeductible interest". Amounts deducted under section 812 (b) (5) for any allowance for the support of the surviving spouse during the settlement of the estate, or under section 812 (b) (2) for commissions allowed to the surviving spouse as executor do not come within the definition of interests which "passed from the decedent to his surviving spouse". As to the valuation, for the purpose of the marital deduction, of any property interest which passed from the decedent to his surviving spouse subject to a mortgage or other incumbrance, see paragraph (b) of § 81.47c.

(d) *Interest in property which another person may possess or enjoy.* Section 812 (e) (1) (B) provides that no marital deduction shall be allowed with respect to certain property interests (referred to generally as "terminable interests") which passed from the decedent to his surviving spouse, in case:

(1) An interest in the same property passed at any time (for less than an adequate and full consideration in money or money's worth) from the decedent to any person other than such spouse (or the estate of such spouse), and

(2) By reason thereof, such person (or his heirs or assigns) may possess or enjoy any part of such property after the termination or failure of the interest therein which passed from the decedent to his surviving spouse.

The foregoing provision is applicable only where interests in the same property passed from the decedent both to his surviving spouse, and to some other person (for less than an adequate and full consideration in money or money's worth), and is applicable irrespective of whether both such interests passed from the decedent at the same time or under the same instrument. Under such circumstances, if the other person to whom an interest passed may, by reason thereof, possess or enjoy any part of the property after the termination or failure of the interest therein which passed from the decedent to his surviving spouse, the latter interest is a "nondeductible interest". As to the meaning of the term "passed from the decedent to a person other than his surviving spouse", see paragraph (b) of § 81.47a.

In determining whether an interest in the same property passed from the decedent both to his surviving spouse and to some other person, a distinction is to be drawn between "property", as such term is used in section 812 (e), and an "interest in property". The term "property" refers to the underlying property in which various interests exist; each such interest is not for this purpose to be considered as "property".

Interests which passed to a person other than the surviving spouse include interests so passing under the decedent's exercise, release, or nonexercise of a nontaxable power to appoint. It is immaterial whether the property interest which passed from the decedent to a person other than his surviving spouse is included in the decedent's gross estate.

The term "person other than his surviving spouse" includes the possible unascertained takers of a property interest, as, for example, the members of a class to be ascertained in the future. As another example, assume that the decedent created a power of appointment over a property interest, which does not come within the purview of paragraph (c) or (d) of § 81.47a. In such a case, the term "person other than his surviving spouse" refers to the possible appointees and possible takers in default (other than the spouse) of such property interest. Whether there is a possibility that the "person other than his surviving spouse" (or the heirs or assigns of such person) may possess or enjoy the property following termination or failure of the interest therein which passed from the decedent to his surviving spouse is to be determined as of the time of the decedent's death.

In the following examples it is assumed that the property interest which passed from the decedent to a person other than his surviving spouse was not for an adequate and full consideration in money or money's worth:

(i) H (the decedent) devised real property to W (his surviving wife) for life, with remainder to A and his heirs. The interest which passed from H to W is a "nondeductible interest" since it will terminate upon her death and A (or his heirs or assigns) will thereafter possess or enjoy the property.

(ii) H devised real property to W for life, and created in W a power, exercisable by will, to appoint the remainder interest to any person. In default of appointment by W, the remainder interest was to go to A and his heirs. Assuming that under the local law W did not take the real property as absolute owner, the interest which passed from H to W is a "nondeductible interest" since such interest will terminate upon her death and A (or his heirs or assigns) may thereafter possess or enjoy the property. (As to cases in which a "deductible interest" may exist where a life interest is coupled with a power to appoint under a trust or insurance contract, see paragraph (c) and (d) of § 81.47a.)

(iii) H bequeathed the residue of his estate in trust for the benefit of W and A. The trust income is to be paid to W for life, and upon her death the corpus is to be distributed to A or his issue. However, if A should die without issue, leaving W surviving, the corpus is then to be distributed to W. The interest which passed from H to W is a "nondeductible interest" since it will terminate in the event of her death if A or his issue survive, and A or his issue will thereafter possess or enjoy the property.

(iv) H, in contemplation of death, purchased for $100,000 a life annuity for W. If the annuity payments made during the life of W should be less than $100,000, further payments were to be made to A. The interest which passed from H to W is a "nondeductible interest" since A may possess or enjoy a part of the property following the termination of the interest of W.

(v) H devised property to W and A as joint tenants with right of survivorship. The interest which passed from H to W is a "nondeductible interest" since, if the tenancy is not severed and A survives W, the interest of W will terminate and A will continue to possess or enjoy the property.

(vi) H, in contemplation of death, transferred a residence to A for life with remainder to W provided W survives A, but if W predeceases A, the property is to pass to B and his heirs. If it is assumed that H died during A's lifetime, and the value of the residence was included in determining the value of his gross estate, the interest which passed from H to W is a "nondeductible interest" since such interest will terminate if W predeceases A and the property will thereafter be possessed or enjoyed by B (or his heirs or assigns). This result is not affected by B's assignment of his interest during H's lifetime, whether made in favor of W or another person, since the term "assigns" (as used in section 812 (e) (1) (B)) includes such assignee. However, if it is assumed that A predeceased H, the interest of B in the property was extinguished, and, viewed as of the time of the subsequent death of H, the interest which passed from him to W is the entire interest in the property and, therefore, a "deductible interest".

(vii) H transferred real property to A, reserving the right to the rentals of the property for a term of 20 years. H died within such 20-year term, bequeathing the right to the remaining rentals to a trust. The terms of the trust satisfy the five conditions stated in paragraph (c) of § 81.47a, so that the property interest which passed in trust is considered to have passed from H to W. Such interest is a "nondeductible interest" since it will terminate upon the expiration of the term and A will thereafter possess or enjoy the property.

(viii) H bequeathed a patent to W and A as tenants in common. In this case, the interest of W will terminate upon the expiration of the term of the patent, but possession or enjoyment of the property by A must necessarily cease at the same time. Therefore, since A's possession or enjoyment cannot outlast the termination of W's interest, the latter is a "deductible interest".

The above-stated provision is to be applied with respect to the property interests which actually passed from the decedent. Subsequent conversions of the property are immaterial for this purpose. Thus, where a decedent bequeathed his estate to his wife for life with remainder to his children, the interest which passed to his wife is a "nondeductible interest," even though the wife agrees with the children to take a fractional share of the estate in lieu thereof, or sells the life estate for cash, or acquires the remainder interest of the children either by purchase or gift.

Section 812 (e) (1) (D) provides an exception to the general rule stated in this paragraph. In general, the object of section 812 (e) (1) (D) is to prevent a property interest from being classified as "nondeductible" where (*a*) the only condition under which it will terminate is the death of the surviving spouse within 6 months after the decedent's death, or the death of such spouse as a result of a common disaster which also resulted in the decedent's death, and (*b*) such condition does not in fact occur. The following examples illustrate the application of the exception provided by section 812 (e) (1) (D):

Example (1). A decedent bequeathed his entire estate to his spouse on condition that she survive him by 6 months. In the event his spouse failed to survive him by 6 months, his estate was to go to his niece and her heirs. The decedent was survived by his spouse. It will be observed that, as of the time of the decedent's death, it was possible that the niece would, by reason of the interest which passed to her from the decedent, possess or enjoy the estate after the termination of the interest therein which passed to the spouse. Hence, under the general rule set forth in this section, the interest which passed to the spouse would be regarded as a "nondeductible interest". If the surviving spouse in fact died within 6 months after the decedent's death, such general rule is to be applied, and the interest which passed to such spouse is a "nondeductible interest". However, if such spouse in fact survived the decedent by 6 months, thus extinguishing the interest of the niece, the case comes within the exception provided by section 812 (e) (1) (D), and the interest which passed to such spouse is a "deductible interest". (It is assumed for the purpose of this example that no other factor which would cause such interest to be "nondeductible" is present.)

Example (2). The facts are the same as in example (1) except that the will provided that the estate was to go to the niece either in case the decedent and his spouse should both die as a result of a common disaster, or in case the spouse should fail to survive the decedent by 3 months. It is assumed that the decedent was survived by his spouse. In this example, the interest which passed from the decedent to his surviving spouse is to be regarded as a "nondeductible interest" in case the surviving spouse in fact died either within 3 months after the decedent's death or as a result of a common disaster which also resulted in the decedent's death. However, if such spouse in fact survived the decedent by 3 months, and did not thereafter die as a result of a common disaster which also resulted in the decedent's death, the exception provided under section 812 (e) (1) (D) will apply.

Where the only condition which will cause the interest taken by the surviving spouse to terminate is of such nature that it can occur only within 6 months following the decedent's death, the exception provided under section 812 (e) (1) (D) will apply, provided the condition does not in fact occur. However, where such condition (unless it relates to death as a result of a common disaster) is one which may occur either within such 6-month period or thereafter, the exception provided under section 812 (e) (1) (D) will not apply.

Where a property interest passed from the decedent to his surviving spouse subject to the condition that she does not die as a result of a common disaster which also resulted in the decedent's death, the exception provided under section 812 (e) (1) (D) will not be applied in the final audit of the return if there is still a possibility that the surviving spouse may be deprived of such property interest by operation of the common disaster provision as given effect by the local law.

(e) *Terminable interest to be acquired by executor or trustee.* Section 812 (e) (1) (B) also provides that no marital deduction may be taken with respect to a life estate or other "terminable interest" which is to be acquired for the surviving spouse, pursuant to directions of the decedent, by his executor or by a trustee. Other examples of "terminable interests" are an annuity, an estate for years, a patent, and a copyright. Section 812 (e) (1) (B) provides that a property interest shall not be considered a "terminable interest" merely because it is the ownership of a bond, note, or similar contractual obligation, the discharge of which would not have the effect of an annuity for life or for a term.

The foregoing provision is applicable only with respect to any property interest which the decedent directed his executor or a trustee to expend, subsequently to his death, in the acquisition of a life estate, annuity, or other "terminable interest" for his surviving spouse. In such a case the property interest which is to be so expended is a "nondeductible interest." The foregoing provision is not applicable, however, in the case of a general authorization to reinvest property, whereunder the executor or trustee may acquire either "terminable interests" or other property interests.

Example. A decedent bequeathed $100,000 to his wife, subject to a direction to his executor to use such bequest for the purchase of an annuity for the wife. The bequest is of a "nondeductible interest."

(f) *Interest payable out of a group of assets.* Section 812 (e) (1) (C) provides that where the assets (included in the decedent's gross estate) out of which, or the proceeds of which, an interest passing to the surviving spouse may be satisfied include a particular asset or assets with respect to which no deduction would be allowed if such asset or assets passed from the decedent to such spouse, then the value of such interest passing to such spouse shall, for the purpose of the marital deduction, be reduced by the aggregate value of such particular assets.

In order for the foregoing provision to apply, two circumstances must coexist, as follows:

(1) The property interest which passed from the decedent to his surviving spouse must be payable out of a group of assets included in the gross estate. Examples of property interests payable out of a group of assets are a general legacy, a bequest of the residue of the decedent's estate or of a portion of the residue, and a right to a share of the corpus of a trust upon its termination.

(2) The group of assets out of which the property interest is payable must include one or more particular assets which, if passing specifically to the surviving spouse, would be "nondeductible interests".

If the above circumstances are both present, the property interest payable out of the group of assets is (except as to any excess of its value over the aggregate value of the particular asset or assets which would not be deductible if passing specifically to the surviving spouse) a "nondeductible interest".

Example. A decedent bequeathed one-third of the residue of his estate to his wife. The property passing under the decedent's will included a right to the rentals of an office building for a term of years, reserved by the decedent under a deed of the building by way of gift to his son. The decedent did not make a specific bequest of the right to such rentals. Such right, if passing specifically to the wife, would be a "nondeductible interest". (See paragraph (d) of this section.) If it is assumed that the value of the bequest of one-third of the residue of the estate to the wife was $85,000, and that the right to the rentals was included in the gross estate at a value of $60,000, then the bequest is, to the extent of $60,000, a "nondeductible interest".

§ 81.47c *Valuation of property interest passing to surviving spouse*—(a) *In general.* The value, for the purpose of the marital deduction, of any "deductible interest" which passed from the decedent to his surviving spouse is to be determined as of the date of the decedent's death, unless the executor elects the optional valuation method in accordance with the provisions of § 81.11, in which case the value of any such interest is to be determined as of such date with adjustment as explained in § 81.11.

(b) *Property interest subject to an incumbrance or obligation.* The marital deduction may be taken only with respect to the net value of any "deductible interest" which passed from the decedent to his surviving spouse, the same principles being applicable as if the amount of a gift to such spouse were being determined. Section 812 (e) (1) (E) provides that where a property interest passed

from the decedent to his surviving spouse subject to a mortgage or other incumbrance, or where an obligation is imposed upon the surviving spouse by the decedent in connection with the passing of a property interest, the value of such property interest is to be reduced by the amount of such mortgage, other incumbrance, or obligation. The passing of a property interest subject to the imposition of an obligation by the decedent does not include a bequest, devise, or transfer in lieu of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate. The passing of a property interest subject to the imposition of an obligation by the decedent does, however, include a bequest, etc., in lieu of the interest of his surviving spouse under community property laws unless such interest was, immediately prior to the decendent's death, a mere expectancy. (See par. (b) of § 81.47d.)

The following are illustrative of property interests which passed from the decedent to his surviving spouse subject to the imposition of an obligation by the decedent:

(1) A decedent devised a residence valued at $25,000 to his wife, with a direction that she pay $5,000 to his sister. For the purpose of the marital deduction, the value of the property interest passing to the wife is only $20,000.

(2) A decedent devised real property to his wife in satisfaction of a debt owing to her. The debt is a deductible claim under section 812 (b) (3). Since the wife is obliged to relinquish such claim as a condition to acceptance of the devise, the value of the devise is, for the purpose of the marital deduction, to be reduced by the amount of such claim.

(3) A decedent bequeathed certain securities to his wife in lieu of her interest in property held by them as community property under the law of the State of their residence. The wife elected to relinquish her community property interest and to take the bequest. For the purpose of the marital deduction, the value of the bequest is to be reduced by the value of the community property interest relinquished by the wife.

(c) *Effect of death taxes.* Section 812 (e) (1) (E) provides that in the determination of the value of any property interest which passed from the decedent to his surviving spouse, there shall be taken into account the effect which the Federal estate tax, or any estate, succession, legacy, or inheritance tax, has upon the net value to the surviving spouse of such property interest.

For example, assume that the only bequest to the surviving spouse is of $100,000 and such spouse is required to pay State inheritance tax in the amount of $1,500. If no other death taxes affect the net value of the bequest, such value, for the purpose of the marital deduction, is $98,500.

To take another example, assume that a decedent devised to his wife real property having a value for Federal estate tax purposes of $100,000, and also bequeathed to her a "nondeductible" interest for life under a trust. The State of residence values the real property at $90,000 and the life interest at $30,000, and imposes an inheritance tax (at graduated rates) of $4,800 with respect to the two interests. If it is assumed that such inheritance tax is required to be paid by the wife, the amount thereof to be ascribed to the devise is:

$$\frac{90,000}{120,000} \times \$4,800 = \$3,600.$$

Accordingly, if no other death taxes affect the net value of the bequest, such value, for the purpose of the marital deduction, is $100,000 less $3,600, or $96,400.

If the decedent bequeaths his residuary estate, or a portion thereof, to his surviving spouse, and his will contains a direction that all death taxes shall be payable out of such residuary estate, the value of the bequest, for the purpose of the marital deduction, is based upon the amount of the residue as reduced pursuant to such direction. If the residuary estate, or a portion thereof, is bequeathed to the surviving spouse, and by the local law the Federal estate tax is payable out of the residuary estate, the value of the bequest, for the purpose of the marital deduction, may not exceed the amount thereof as reduced by the Federal estate tax.

(d) *Remainder interests.* Where the income from property is made payable to another individual for life, or for a term of years, with remainder absolutely to the surviving spouse or to her estate, the marital deduction is based upon the present value of the remainder. The present value of the remainder is to be determined in accordance with the rules stated in § 81.10 (i). For example, if the surviving spouse is to receive $50,000 upon the death of a person aged 31 years, the present value of the remainder is $15,631. (See example in § 81.10 (i) (4).) If the remainder is such that its value is to be determined by a special computation (see § 81.10 (i) (3)), a request for a specific factor accompanied by a statement of the date of birth of each person, the duration of whose life may affect the value of the remainder, and by copies of the relevant instruments may be submitted to the Commissioner who in his discretion may supply the factor requested. If the Commissioner does not furnish the factor, the claim for deduction must be supported by a full statement of the computation of the present worth made, in accordance with the principles set forth in § 81.10 (i), by one skilled in actuarial computations.

§ 81.47d *Limitation on amount of marital deduction*—(a) *In general.* The allowable marital deduction is limited to the smaller of the following amounts:

(1) The aggregate value of the "deductible interests" which passed from the decedent to his surviving spouse, as determined under §§ 81.47a to 81.47c.

(2) Fifty per cent of the value of the "adjusted gross estate", as determined under this section. Except as provided in paragraph (b) of this section (relating to community property), the "adjusted gross estate" is to be determined by substracting from the entire value of the gross estate the aggregate amount of the deductions allowed under section 812 (b). (See § 81.29 to 81.40.)

Example. The value of a decedent's gross estate is $200,000 and the aggregate amount of the deductions allowed by section 812 (b) is $30,000. The value of the "adjusted gross estate" is, therefore, $200,000 less $30,000, which is $170,000. It is assumed that the aggregate value of the "deductible interests" which passed from the decedent to his surviving spouse is $100,000. The allowable marital deduction is limited to $85,000 (50 per cent of the value of the "adjusted gross estate").

(b) *Special rule in case involving community property.* If the decedent and his surviving spouse at any time held property as "community property", as hereinafter defined, the "adjusted gross estate" referred to in paragraph (a) of this section is to be determined by subtracting from the entire value of the gross estate the sum of the following values and amounts:

(1) The value of any property included in the gross estate which was at the time of the decedent's death held by him and his surviving spouse as "community property", as hereinafter defined.

(2) The value of property (to the extent included in the gross estate) transferred by the decedent during his life, if at the time of such transfer the property was held by him and his surviving spouse as "community property", as hereinafter defined.

(3) The amount (to the extent included in the gross estate) receivable as insurance under policies upon the life of the decedent to the extent purchased with premiums or other consideration paid out of property then held by him and his surviving spouse as "community property", as hereinafter defined.

(4) An amount, A, which bears the same ratio to B (the aggregate amount of the deductions allowed by section 812 (b)) as C (the value of the gross estate, diminished by the aggregate amount subtracted under subparagraphs (1), (2), and (3) of this paragraph) bears to D (the entire value of the gross estate).

Where a policy of insurance upon the life of the decedent was purchased partly with property held by him and his surviving spouse as "community property," as hereinafter defined, and partly with other property, the amount receivable under such policy is considered, for the purpose of subparagraph (3) of this paragraph, to have been purchased with such "community property" in the proportion that the payments made with such "community property" bear to the total amount paid. If only a portion of the proceeds of a policy is included in the gross estate, only such portion of the proceeds, and only the premiums or other consideration paid for such portion, are to be included in the computation stated in the preceding sentence. (See § 81.27.)

In determining the "adjusted gross estate" under this paragraph, property held by the decedent and his surviving spouse as "community property", at the time of the death of the decedent (for the purpose of subparagraph (1) of this paragraph), at the time of the transfer (for the purpose of subparagraph (2) of this paragraph), or at the time of the payment of insurance premiums or other

consideration (for the purpose of subparagraph (3) of this paragraph), is considered to include:

(i) Any property held by them at such time as community property under the law of any State, Territory, or possession of the United States, or of any foreign country, except such property in which the surviving spouse had at such time merely an expectant interest.

(ii) Separate property acquired by the decedent as a result of a "conversion" (during the calendar year 1942 or after April 2, 1948) of property held by him and his surviving spouse as community property under the law of any State, Territory, or possession of the United States, or of any foreign country, (except such property in which the surviving spouse had at the time of the "conversion" merely an expectant interest) into their separate property.

(iii) Property acquired by the decedent in exchange (by one exchange or a series of exchanges) for separate property acquired as set forth under subdivision (ii) of this subparagraph.

The surviving spouse is regarded as having merely an expectant interest in property held as community property under the law of any State, Territory, or possession of the United States, or of any foreign country, (*a*) at the time of the decedent's death if the entire value of such property (and not merely one-half thereof) is includible in the decedent's gross estate, and (*b*) at the time of any transfer, payment of insurance premiums or other consideration, or "conversion" if, in case of the death of the decedent at such time, the entire value of the property involved in such transfer, payment, or "conversion" (and not merely one-half thereof) would, without regard to the provisions of section 811 (e) (2), have been so includible.

The term "conversion" refers to any transfer of property from the marital community, whereby each spouse acquired separate property. Such term thus includes a partition of community property between the decedent and his surviving spouse or a transfer of community property to themselves in joint tenancy, tenancy by the entirety, tenancy in common, or other form of coownership, whether such partition or other conversion was effected by a single transaction or a series of transactions. Where the value of the separate property acquired by the decedent as a result of a conversion did not exceed the value of the separate property thus acquired by the surviving spouse, the entire separate property thus acquired by the decedent is to be considered, for the purposes of this paragraph, as held by him and his surviving spouse as community property. Where the value (at the time of the conversion) of the separate property so acquired by the decedent exceeded the value (at such time) of the separate property so acquired by the spouse, only a part of the separate property so acquired by the decedent (and only the same fractional part of property acquired by him in exchange for such separate property) is to be considered, for the purposes of this paragraph, as held by him and his surviving spouse as community property. The part of such separate property (or property acquired in exchange therefor) which is considered as so held is the same proportion thereof which the value (at the time of the conversion) of the separate property so acquired by the spouse is of the value (at such time) of the separate property so acquired by the decedent.

Example (*1*). The value of a decedent's gross estate is $300,000, of which $200,000 represents his separate property and $100,000 represents his one-half interest in community property. The decedent's separate property was inherited from his father. The deductions allowed under section 812 (b) total $45,000. In this example, the "adjusted gross estate" is computed as follows:

Value of gross estate		$300,000
Reduction under subparagraph (1)	$100,000	
Reduction under subparagraph (4) ($200,000/300,000 of $45,000)	30,000	
Total reduction		130,000
Adjusted gross estate		170,000

In this example the marital deduction will be $85,000 (one-half the value of the "adjusted gross estate") in case the aggregate value of the "deductible interests" which passed from the decedent to his surviving spouse equals or exceeds such amount.

Example (*2*). The facts are the same as in example (1) except that the decedent's separate property was not inherited from his father, but was acquired under the following transaction: On November 1, 1942, the decedent and his surviving spouse partitioned certain community property then having a value of $224,000. A portion of such property then having a value of $160,000, was converted into the decedent's separate property, and the remaining portion, then having a value of $64,000, was converted into his spouse's separate property. The portion of the separate property so acquired by the decedent which is considered as held as community property at the time of his death is represented by that proportion of $200,000 (the value, at the time of death, of such separate property) which $64,000 (the value, at the time of the conversion, of the separate property so acquired by his spouse) bears to $160,000 (the value, at the time of the conversion, of the separate property so acquired by the decedent), which proportion equals $80,000. The "adjusted gross estate" is computed as follows:

Value of gross estate		$300,000
Reduction under subparagraph (1) ($100,000 plus $80,000)	$180,000	
Reduction under subparagraph (4) ($120,000/300,000 of $45,000)	18,000	
Total reduction		198,000
Adjusted gross estate		102,000

The burden of establishing the extent to which separate property of the decedent was acquired other than as described in subdivisions (i) and (iii) of this subparagraph rests upon the executor.

§ 81.47e *Proof required.* The executor must submit such proof as is necessary to establish the right of the estate to the marital deduction, including any evidence requested by the Commissioner.

PAR. 17. Section 81.53, as amended by Treasury Decision 5239, is further amended as follows:

(A) By striking out "the three following exceptions" and by inserting in lieu thereof the following: "the four following exceptions."

(B) By inserting at the end thereof the following subparagraph:

§ 81.53 *Deduction of the value of property previously taxed.* * * *

(4) The condition set forth under § 81.41 (a) (6) should be disregarded in determining whether the deduction is available.

PAR. 18. There is inserted immediately preceding § 81.83 the following:

SEC. 365. (REVENUE ACT OF 1948) LIABILITY OF LIFE INSURANCE BENEFICIARIES, ETC.

(a) Section 826 (c) of the Internal Revenue Code (relating to liability of life insurance beneficiaries) is hereby amended by adding at the end thereof the following new sentence: "In the case of such proceeds receivable by the surviving spouse of the decedent for which a deduction is allowed under section 812 (e) (the so-called 'marital deduction'), this subsection shall not apply to such proceeds except as to the amount thereof in excess of the aggregate amount of the marital deductions allowed under such subsections."

(b) Section 826 (d) of the Internal Revenue Code (relating to liability of recipient of property over which decedent had power of appointment) is hereby amended by adding at the end thereof the following new sentence: "In the case of such property received by the surviving spouse of the decedent for which a deduction is allowed under section 812 (e) (the so-called 'marital deduction'), this subsection shall not apply to such property except as to the value thereof reduced by an amount equal to the excess of the aggregate amount of the marital deductions allowed under section 812 (e) over the amount of proceeds of insurance upon the life of the decedent receivable by the surviving spouse for which proceeds a marital deduction is allowed under such subsection."

(c) The amendments made by this section shall be applicable only with respect to estates of decedents dying after December 31, 1947.

PAR. 19. Section 81.79 (b) is amended by inserting immediately preceding the period at the end of the first sentence of the fourth undesignated paragraph thereof the following: "; the portion of the marital deduction allowed under the provisions of section 812 (e) on account of bequests, etc., of such interests to the decedent's surviving spouse".

[F. R. Doc. 48-9765; Filed, Nov. 5, 1948; 9:02 a. m.]

[26 CFR, Part 86]

GIFT TAX; GIFTS OF HUSBAND AND WIFE UNDER REVENUE ACT OF 1948

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C.,

within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 1029 and 3791 of the Internal Revenue Code (53 Stat. 157, 467; 26 U. S. C. 1029, 3791) and pursuant to the provisions of the Revenue Act of 1948 (Public Law 471, 80th Congress), enacted April 2, 1948.

[SEAL] FRED S. MARTIN,
Acting Commissioner of Internal Revenue.

In order to conform Regulations 108 (26 CFR, Part 86) to certain sections of the Revenue Act of 1948 (Pub. Law 471, 80th Cong.), enacted April 2, 1948, such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 86.1 the following:

SEC. 371. GIFTS OF COMMUNITY PROPERTY. (Revenue Act of 1948; enacted April 2, 1948.)

Section 1000 (d) of the Internal Revenue Code (relating to gifts of property held as community property) is amended by adding at the end thereof a new sentence to read as follows: "This subsection shall be applicable only to gifts made after the calendar year 1942 and on or before the date of the enactment of the Revenue Act of 1948."

SEC. 374. GIFT OF HUSBAND OR WIFE TO THIRD PARTY. (Revenue Act of 1948; enacted April 2, 1948.)

Section 1000 of the Internal Revenue Code (relating to imposition of gift tax) is hereby amended by adding at the end thereof a new subsection to read as follows:

(f) *Gift of husband or wife to third party*—(1) *Considered as made one-half by each*—(A) *In general.* A gift made after the date of the enactment of the Revenue Act of 1948 by one spouse to any person other than his spouse shall, for the purposes of this chapter, be considered as made one-half by him and one-half by his spouse, but only if at the time of the gift each spouse is a citizen or resident of the United States. This subparagraph shall not apply with respect to a gift by a spouse of an interest in property if he creates in his spouse a power of appointment, as defined in subsection (c) of this section, over such interest. For the purposes of this subsection an individual shall be considered as the spouse of another individual only if he is married to such individual at the time of the gift and does not remarry during the remainder of the calendar year.

(B) *Consent of both spouses.* Subparagraph (A) shall be applicable only if both spouses have signified (in accordance with the regulations provided for in paragraph (2)) their consent to the application of subparagraph (A) in the case of all such gifts made during the calendar year by either while married to the other.

(2) *Manner and time of signifying consent*—(A) *Manner.* A consent under this subsection shall be signified in such manner as is provided under regulations prescribed by the Commissioner with the approval of the Secretary.

(B) *Time.* Such consent may be so signified at any time after the close of the calendar year in which the gift was made, subject to the following limitations:

(i) The consent may not be signified after the 15th day of March following the close of such year, unless before such 15th day no return has been filed for such year by either spouse, in which case the consent may not be signified after a return for such year is filed by either spouse;

(ii) The consent may not be signified after a notice of deficiency with respect to the tax for such year has been sent to either spouse in accordance with section 1012 (a).

(3) *Revocation of consent.* Revocation of a consent previously signified shall be made in such manner as is provided under regulations prescribed by the Commissioner with the approval of the Secretary, but the right to revoke a consent previously signified with respect to a calendar year:

(A) Shall not exist after the 15th day of March following the close of such year if the consent was signified on or before such 15th day; and

(B) Shall not exist if the consent was not signified until after such 15th day.

(4) *Joint and several liability for tax.* If the consent required by paragraph (1) (B) is signified with respect to a gift made in any calendar year the liability with respect to the entire tax imposed by this chapter of each spouse for such year shall be joint and several.

PAR. 2. Section 86.2 (a) is amended as follows:

(A) By inserting immediately after the seventh sentence (in parentheses), the following: "Where a joint income tax return is filed under chapter 1 by husband and wife for a taxable year the payment by one spouse of all or part of the income tax liability for such year is not treated as resulting in a transfer which is subject to gift tax. The same rule is applicable to the payment of gift tax for a calendar year in the case of husband and wife who have consented to the application of section 1000 (f) for such year."

(B) By inserting at the end thereof the following:

(9) Where property held by a husband and wife as community property is used to purchase insurance upon the husband's life and a third person is revocably designated as beneficiary and under the State law the husband's death is considered to make absolute the transfer by the wife, there is a gift by the wife at the time of such death of one-half the amount of the proceeds of such insurance. (For special provisions with respect to transfers of community property after 1942 and on or before April 2, 1948, see paragraph (c) of this section.)

PAR. 3. Section 86.2 (c) is amended as follows:

(A) By inserting in the heading immediately following *"1942"* and preceding the period the following: *"and on or before April 2, 1948"*.

(B) By striking from the first sentence "During the calendar year 1943 and any calendar year thereafter any gift" and by inserting in lieu thereof the following: "Any gift after December 31, 1942, and on or before April 2, 1948,".

(C) By striking from the last sentence of the second undesignated paragraph "on or after January 1, 1943" and by inserting in lieu thereof the following: "after December 31, 1942, and on or before April 2, 1948".

PAR. 4. There is inserted immediately following § 86.3 the following.

§ 86.3a *Gift of husband or wife to third party after April 2, 1948*—(a) *In general.* Section 1000 (f), as added by section 374 of the Revenue Act of 1948, makes provision whereby a gift made after April 2, 1948, by one spouse to a person other than his spouse may, for the purpose of the gift tax, be considered as made one-half by him and one-half by his spouse, but only if at the time of the gift each spouse was a citizen or resident of the United States. For the purposes of section 1000 (f) an individual is to be considered as the spouse of another individual only if he is married to such individual at the time of the gift and does not remarry during the remainder of the calendar year.

The provisions of section 1000 (f) will apply only if both spouses consent. As to the manner and time of signifying such consent, see paragraph (b) of this section. Such consent, if signified, is effective with respect to all gifts made to third parties during the calendar year to which the consent applies, except as follows:

(1) If the consenting spouses were not married to each other during any portion of the calendar year, the consent is not effective with respect to any gift made during such portion of the calendar year.

(2) If either spouse was a nonresident not a citizen of the United States during any portion of the calendar year, the consent is not effective with respect to any gift made during such portion of the calendar year.

(3) The consent is not effective with respect to a gift by one spouse of a property interest if he created in his spouse a power of appointment (as defined in section 1000 (c)) over such property interest.

(4) If one spouse transferred property in part to his spouse and in part to third parties, the consent is effective with respect to the interest transferred to third parties only insofar as such interest is ascertainable at the time of the gift, and hence severable from the interest transferred to his spouse. Section 86.19 (f) indicates the principles to be applied in the valuation of annuities, life estates, terms for years, remainders and reversions.

The consent applies alike to gifts made by one spouse alone and to gifts made partly by each spouse, provided such gifts were to third parties and do not fall within any of the foregoing exceptions. The consent may not be applied only to a portion of the property interests constituting such gifts.

If consent to the application of the provisions of section 1000 (f) is signified as provided in paragraph (b) of this section for any calendar year and not revoked as provided in paragraph (c) of this section, the liability with respect to the entire gift tax of each spouse for such calendar year shall be joint and several.

(b) *Manner and time of signifying consent.* Consent to the application of the provisions of section 1000 (f) with respect to a calendar year shall, in order to be effective, be signified by both spouses. If both spouses file gift tax returns, Form 709, within the time for signifying consent it is sufficient if (1) the consent of both spouses is signified on one of such returns or (2) the consent of one spouse is signified on one

such return and the consent of the other spouse is signified on the other return. If only one spouse files a gift tax return within the time provided for signifying consent, the consent of both spouses shall be signified on such return. However, wherever possible notice of the consent is to be shown on both returns. The consent may be revoked only as provided in paragraph (c) of this section. (As to whether one or both spouses are required to file returns, see § 86.20.) Where one spouse files more than one Form 709 for a calendar year on or before the 15th day of March following the close of such year, the last Form 709 so filed will, for the purpose of determining whether a consent has been signified, be considered as the return.

The consent may be so signified at any time after the close of the calendar year, subject to the following limitations:

(1) The consent may not be signified after the 15th day of March following the close of such year, unless before such 15th day no return has been filed for such year by either spouse, in which case the consent may not be signified after a return for such year is filed by either spouse; and

(2) The consent may not be signified after a notice of deficiency with respect to the tax for such year has been sent to either spouse in accordance with section 1012 (a).

If one spouse dies or becomes legally incompetent within the period during which the consent for any calendar year may be signified, his executor, administrator, guardian, or committee, as the case may be, may signify such consent.

As to the preparation of the return in case consent is signified, see § 86.23.

(c) *Revocation of consent.* If the consent to the application of the provisions of section 1000 (f) with respect to a calendar year was effectively signified or before the 15th day of March following the close of such year, either spouse may revoke such consent by filing in duplicate with the collector of internal revenue a signed statement of revocation; but the right to revoke shall not exist after such 15th day. A consent which was not effectively signified until after the 15th day of March following the close of the calendar year to which it applies may not be revoked.

PAR. 5. Section 86.7 is amended by inserting immediately after the sixth sentence thereof the following: "Where a consent under section 1000 (f) was effectively signified with respect to any preceding calendar year, the aggregate sum of the net gifts for such preceding calendar year is to be determined pursuant to the provisions of such section."

PAR. 6. Section 86.9 is amended by changing the last sentence thereof to read as follows: "(See §§ 86.12 to 86.16d."

PAR. 7. There is inserted immediately preceding § 86.12 the following:

SEC. 372. MARITAL DEDUCTION. (Revenue Act of 1948; enacted April 2, 1948.)

Section 1004 (a) of the Internal Revenue Code (relating to deductions in computing net gifts in the case of a citizen or resident of the United States) is hereby amended by adding at the end thereof a new paragraph to read as follows:

(3) *Gift to spouse*—(A) *In general.* Where the donor transfers during the calendar year (and after the date of the enactment of the Revenue Act of 1948) by gift an interest in property to a donee who at the time of the gift is the donor's spouse—an amount with respect to such interest equal to one-half of its value.

(B) *Life estate or other terminable interest.* Where, upon the lapse of time, upon the occurrence of an event or contingency, or upon the failure of an event or contingency to occur, such interest transferred to the spouse will terminate or fail, no deduction shall be allowed with respect to such interest:

(i) If the donor retains in himself, or transfers or has transferred (for less than an adequate and full consideration in money or money's worth) to any person other than such donee spouse (or the estate of such spouse), an interest in such property, and if by reason of such retention or transfer the donor (or his heirs or assigns) or such person (or his heirs or assigns) may possess or enjoy any part of such property after such termination or failure of the interest transferred to the donee spouse; or

(ii) If the donor immediately after the transfer to the donee spouse has a power to appoint an interest in such property which he can exercise (either alone or in conjunction with any person) in such manner that the appointee may possess or enjoy any part of such property after such termination or failure of the interest transferred to the donee spouse. For the purposes of this clause the donor shall be considered as having immediately after the transfer to the donee spouse such power to appoint even though such power cannot be exercised until after the lapse of time, upon the occurrence of an event or contingency, or upon the failure of an event or contingency to occur.

An exercise or release at any time by the donor, either alone or in conjunction with any person, of a power to appoint an interest in property, even though not otherwise a transfer, shall, for the purposes of clause (i) of this subparagraph, be considered as a transfer by him. Except as provided in subparagraph (E), where at the time of the transfer it is impossible to ascertain the particular person or persons who may receive from the donor an interest in property so transferred by him, such interest shall, for the purposes of clause (i) of this subparagraph, be considered as transferred to a person other than the donee spouse.

(C) Where the assets out of which, or the proceeds of which, the interest transferred to the donee spouse may be satisfied include a particular asset or assets with respect to which no deduction would be allowed if such asset or assets were transferred from the donor to such spouse, then the value of the interest transferred to such spouse shall, for the purposes of subparagraph (A), be reduced by the aggregate value of such particular assets.

(D) *Joint interests.* If the interest is transferred to the donee spouse as sole joint tenant with the donor or as tenant by the entirety, the interest of the donor in the property which exists solely by reason of the possibility that the donor may survive the donee spouse, or that there may occur a severance of the tenancy, shall not be considered for the purposes of subparagraph (B) as an interest retained by the donor in himself.

(E) *Trust with power of appointment in donee spouse.* Where the donor transfers in trust an interest in property, if under the terms of the trust his spouse is entitled for life to all the income from the corpus of the trust, payable annually or at more frequent intervals, with power in the donee spouse to appoint the entire corpus free of the trust (exercisable in favor of such donee spouse, or of the estate of such donee spouse, or in favor of either, whether or not in each case the power is exercisable in favor of others), and with no power in any other person to appoint any part of the corpus to any person other than the donee spouse:

(i) The interest so transferred in trust shall, for the purposes of subparagraph (A), be considered as transferred to the donee spouse, and

(ii) No part of the interest so transferred in trust shall, for the purposes of subparagraph (B) (i), be considered as retained in the donor or transferred to any person other than the donee spouse.

This subparagraph shall be applicable only if, under the terms of the trust, such power in the donee spouse to appoint the corpus, whether exercisable by will or during life, is exercisable by such spouse alone and in all events.

(F) *Community property.* (i) A deduction otherwise allowable under this paragraph shall be allowed only to the extent that the transfer can be shown to represent a gift of property which is not, at the time of the gift, held as community property under the law of any State, Territory, or possession of the United States, or of any foreign country.

(ii) For the purposes of clause (i), community property (except property which is considered as community property solely by reason of the provisions of clause (iii)) shall not be considered as "held as community property" if the entire value of such property (and not merely one-half thereof) is treated as the amount of the gift.

(iii) If during the calendar year 1942 or after the date of the enactment of the Revenue Act of 1948, property held as such community property (unless considered by reason of clause (ii) as not so held) was by the donor and the donee spouse converted, by one transaction or a series of transactions, into separate property of the donor and such spouse (including any form of co-ownership by them), the separate property so acquired by the donor and any property acquired at any time by the donor in exchange therefor (by one exchange or a series of exchanges) shall, for the purposes of clause (i), be considered as "held as community property."

(iv) Where the value (at the time of such conversion) of the separate property so acquired by the donor exceeded the value (at conversion) of the separate property so acquired by such spouse, the rule in clause (iii) shall be applied only with respect to the same portion of such separate property of the donor as the portion which the value the same portion of such separate property so acquired by such spouse is of the value (as of such time) of the separate property so acquired by the donor.

SEC. 373. TECHNICAL AMENDMENT. (Revenue Act of 1948.)

Section 1004 (c) of the Internal Revenue Code is hereby amended to read as follows:

(c) *Extent of deductions.* The deductions provided in subsection (a) (2) or (3) or in subsection (b) shall be allowed only to the extent that the gifts therein specified are included in the amount of gifts against which such deductions are applied.

PAR. 8. There is inserted immediately following § 86.16 the following:

§ 86.16a *Gifts to spouse after April 2, 1948*—(a) *Allowance of marital deduction.* In determining the amount of net gifts for the calendar year 1949 or for any calendar year thereafter, in the case of a donor who was a citizen or resident of the United States at the time the gift was made, there may be deducted an amount equal to one-half the value of any property interest (except as otherwise provided herein or in §§ 86.16b and

86.16c) transferred by gift to a donee who at the time of the gift was the donor's spouse. Such deduction is also authorized for the calendar year 1948, except with respect to gifts made on or before April 2, 1948. Such deduction is hereinafter referred to as the "marital deduction".

No marital deduction is authorized with respect to a gift in case the donor was, at the time of the gift, a nonresident not a citizen of the United States. However, if the donor was, at the time of the gift, a citizen or resident, he is not deprived of the right to the marital deduction by reason of the fact that his spouse was a nonresident not a citizen.

For convenience the donor's spouse is generally referred to in the feminine gender, but the application of the statute is not so limited.

(b) *Trust with power of appointment in donee spouse.* In the case of property interests transferred by the donor in trust, if the terms of the trust satisfy the five conditions stated in the next sentence, the donor's spouse is (for the purpose of determining the marital deduction) considered as the donee, not only of her beneficial interest therein, but also of the interest therein subject to her power to appoint. The five conditions which must be satisfied by the terms of the trust are as follows:

(1) The donee spouse must be entitled for life to all the income from the corpus of the trust.

(2) Such income must be payable annually or at more frequent intervals.

(3) The donee spouse must have the power, exercisable in favor of herself or of her estate, to appoint the entire corpus free of the trust.

(4) Such power in the donee spouse must be exercisable by such spouse alone and (whether exercisable by will or during life) must be exercisable in all events.

(5) The corpus of the trust must not be subject to a power in any other person to appoint any part thereof to any person other than the donee spouse.

In determining whether the above-stated conditions (1) to (5), are satisfied by the terms of the trust, regard is to be had to the applicable provisions of the law of the jurisdiction governing the administration of the trust. For example, silence of the trust as to the frequency of payment will not be regarded as a failure to satisfy condition (2) in case the applicable law requires payment to be made annually or more frequently.

The donor's spouse is "entitled for life to all the income from the corpus of the trust", within the meaning of section 1004 (a) (3) (E), if the effect of the trust is to give her substantially that degree of beneficial enjoyment of the trust property during her life which the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust. Such degree of enjoyment is given only if it was the donor's intention, as manifested by the terms of the trust instrument and the surrounding circumstances, that the trust should produce for the spouse during her life such a periodically distributable income, or that the spouse should have such use of the trust property, as is consistent with the value of the trust corpus and with its preservation. The designation of the spouse as sole income beneficiary for life will be sufficient to qualify the trust unless the terms of the trust considered as a whole evidence an intention to deprive the spouse of the requisite degree of enjoyment. In determining whether a trust evidences such intention the treatment required or permitted with respect to individual items must be considered in relation to the entire system provided for the administration of the trust.

If the over-all effect of the trust is to give to the donor's spouse such enforceable rights as will preserve to her the requisite degree of enjoyment, it is immaterial whether such result is effected by rules specifically stated in the trust instrument, or, in their absence, by the rules for the management of the trust property and the allocation of receipts and expenditures supplied by the State law. For example, where the State law does not provide for amortization of bond premium, a provision in the trust instrument for such amortization by appropriate periodic charges to interest will not disqualify the trust.

Provisions granting administrative powers to the trustee will not have the effect of disqualifying the trust unless the grant of such powers evidences the intention to deprive the spouse of the beneficial enjoyment required by the statute. Such intention will not be considered to exist if the entire terms of the instrument are such that the local courts will impose reasonable limitations upon the exercise of such powers. Among the powers which if subject to such limitations will not disqualify the trust are the power to allocate receipts between income and corpus, the power to determine the charges which shall be made against income and corpus, and the power to apply the income for the benefit of the spouse.

The rules to be applied by the trustee in allocation of receipts and expenses between income and corpus must be considered in relation to the nature and expected productivity of the trust assets, the nature and frequency of occurrence of the expected receipts, and any provisions as to change in the form of investments. Where it is evident from the nature of the trust assets and the rules provided for management of the trust that the allocation to income of such receipts as rents, cash dividends and interest will give to the spouse the substantial enjoyment during life required by the statute, provisions that such receipts as stock dividends and proceeds from the conversion of trust assets shall be treated as corpus will not disqualify the trust. Similarly, provision for a depletion charge against income in the case of trust assets which are subject to depletion will not disqualify the trust, unless the effect is to deprive the spouse of the requisite beneficial enjoyment. A power in the trustee to retain unproductive property will not disqualify if the applicable rules for the administration of the trust require that the property be converted within a reasonable time and that income be given the spouse to compensate for undue delay in such conversion. A power to retain a residence for the spouse or other property for her personal use will not disqualify the trust.

A trust will not qualify if its primary purpose is to safeguard property without providing the spouse with the required beneficial enjoyment. An example is a trust the corpus of which consists substantially of unproductive property which the trustee is required to retain without furnishing a reasonable compensation to the spouse on account of the non-conversion of such property.

If the donee spouse is entitled to only a portion of the trust income, or has power to appoint only a portion of the corpus, the trust fails to satisfy conditions (1) and (3), respectively. However, such conditions may be satisfied by one or more of several separate trusts created by the donor. An undivided interest in property may constitute the corpus of a trust, and a single trust instrument may create more than one trust.

A trust fails to satisfy condition (1) if the income is required to be accumulated in whole or in part, or may be accumulated in the discretion of any person other than the donee spouse, if the consent of any person other than the donee spouse is required as a condition precedent to distribution of the income, if any person other than the donee spouse has the power to alter the terms of the trust so as to deprive such spouse of her right to the income, or if any person other than the donee spouse is entitled to any part of the income during the life of such spouse. A trust will not fail to satisfy condition (1) merely because its terms provide that the right of the spouse to the income shall not be subject to assignment, alienation, pledge, attachment or claims of creditors.

The terms "entitled for life" and "payable annually or more frequently", as used in conditions (1) and (2), require that under the terms of the trust the income referred to must be currently (at least annually) distributable to the spouse or that she must have such command over the income that it is virtually hers. Thus, conditions (1) and (2) are satisfied in this respect if, under the terms of the trust instrument, the spouse has the unfettered right exercisable annually (or more frequently) to require distribution to herself of the trust income, and otherwise the trust income is to be accumulated and added to corpus. Similarly, as respects the income for the period between the last distribution date and the date of the spouse's death, it is sufficient if such income is subject to the spouse's power to appoint. In the case of a trust which may be terminated during the life of the donee spouse, under her exercise of a power of appointment or by distribution of the corpus to her, the trust satisfies condition (1) if such spouse is entitled to the income until the trust terminates.

In order to satisfy condition (3), the power of the donor's spouse to appoint the entire corpus free of the trust must fall within one of the following categories:

(i) A power so to appoint exercisable in her own favor at any time during life

(as for example, an unlimited power to invade).

(ii) A power so to appoint exercisable in favor of her estate.

(iii) A combination of the powers described under (i) and (ii). For example, the donor's spouse may until she attains the age of 50 years have a power to appoint to herself and thereafter have a power to appoint to her estate. However, condition (4) is not satisfied unless irrespective of when the spouse may die any amounts remaining unpaid will at the time of her death be subject to one or the other such power.

The power in the donee spouse must be a power to appoint the corpus to herself as unqualified owner or to appoint the corpus as a part of her estate, that is, to dispose of it to whomsoever she pleases. Thus, if the donee spouse entered into an agreement with the donor to exercise the power only in favor of their issue, condition (3) is not met. The trust will not be regarded as failing to satisfy condition (3) merely because takers in default of the donee spouse's exercise of the power are designated by the donor. The donor may provide that, in default of exercise of the power, the trust shall continue for an additional period.

In order for condition (4) to be satisfied, the power in the donee spouse to appoint the corpus to herself or to her estate must be exercisable without the joinder or consent of any other person. In addition, such power, if exercisable during her life, must be fully exercisable at any time during life, or, if exercisable by will, must be fully exercisable irrespective of the time of her death. An example of a power which will not satisfy condition (4) is a power exercisable by the spouse unless she shall remarry.

The trust will fail to satisfy condition (5) if the donor created a power in the trustee, or in another person, to invade the corpus of the trust for the benefit of any person other than the donee spouse. However, only powers in other persons which are in opposition to that of the donee spouse will cause the trust to fail to satisfy condition (5). For example, assume that a donor created a trust designating his donee spouse as income beneficiary for life and as donee of a power to appoint the corpus. The donor further provided that in the event the donee spouse should die without having exercised the power, the trust should continue for the life of his son with power in such son to appoint the corpus. Since the power in the son could become exercisable only after the death of the donee spouse, the trust is not regarded as failing to satisfy condition (5).

(c) *Remainder interests.* Where the income from property is made payable to the donor or another individual for life, or for a term of years, with remainder absolutely to the donor's spouse or to her estate, the marital deduction is equal to one-half the present value of the remainder. The present value of the remainder (that is, its value as of the date of the gift) is to be determined in accordance with the rules stated in § 86.19 (f). For example, if the donor's spouse is to receive $50,000 upon the death of a person aged 31 years, the present value of the remainder is $15,631. (See example in § 86.19 (f) (6).) If the remainder is such that its value is to be determined by a special computation (see § 86.19 (f) (4)), a request for a specific factor accompanied by a statement of the date of birth of each person, the duration of whose life may affect the value of the remainder, and by copies of the relevant instruments may be submitted to the Commissioner who in his discretion may supply the factor requested. If the Commissioner does not furnish the factor, the claim for deduction must be supported by a full statement of the computation of the present worth made, in accordance with the principles set forth in § 86.19 (f), by one skilled in actuarial computations.

(d) *Limitation on deduction.* Under the provisions of section 1004 (c), as amended by section 373 of the Revenue Act of 1948, the marital deduction is allowable only to the extent that the gifts with respect to which such deduction is authorized are included in the "total amount of gifts made during the calendar year" computed as provided in section 1003. (See § 86.10.) The limitation under section 1004 (c) is effective where less than one-half of the gifts with respect to which the deduction is authorized is included in such "total amount of gifts".

Example. The only gifts made by a donor to his spouse during the calendar year 1948 were a gift of $3,000 in May and a gift of $2,000 in August. The first $3,000 of such gifts is excluded under the provisions of section 1003 in determining the "total amount of gifts made during the calendar year". The marital deduction of $2,500 (one-half of $3,000 plus one-half of $2,000) otherwise allowable is limited by section 1004 (c) to $2,000.

§ 86.16b *Gift of life estate or other terminable interest*—(a) *In general.* The provisions of section 1004 (a) (3) (B) generally prevent the allowance of the marital deduction with respect to certain property interests (referred to generally as "terminable interests") transferred to the donee spouse, in case the transfer was upon the terms described in paragraphs (b), (c), or (d) of this section. In general, the provisions of section 1004 (a) (3) (B) are applicable in the case the donor transferred an interest in property to the donee spouse and also (1) transferred an interest in the same property to another donee, or (2) retained an interest in the same property in himself, or (3) retained a power to appoint an interest in the same property. Under such circumstances, if the other donee, the donor, or the possible appointee, may, by reason of such transfer or retention, possess or enjoy any part of the property after the termination or failure of the interest therein transferred to the donee spouse, no marital deduction may be taken with respect to such transfer to the donee spouse.

For the purposes of this section, a distinction is to be drawn between "property", as such term is used in section 1004 (a) (3), and an "interest in property". The "property" referred to is the underlying property in which various interests exist; each such interest is not, for this purpose, to be considered as "property".

The expression "terminable interest" refers to a life estate, an estate for years, or any other property interest which, upon the lapse of time, upon the occurrence of an event or contingency, or upon the failure of an event or contingency to occur, will terminate or fail.

(b) *Interest in property which another donee may possess or enjoy.* Section 1004 (a) (3) (B) provides that no marital deduction shall be allowed with respect to the transfer to the donee spouse of a "terminable interest" in property, in case:

(1) The donor transferred (for less than an adequate and full consideration in money or money's worth) an interest in the same property to any person other than the donee spouse (or the estate of such spouse), and

(2) By reason of such transfer, such person (or his heirs or assigns) may possess or enjoy any part of such property after the termination or failure of the interest therein transferred to the donee spouse.

The above-stated provision is applicable whether the transfer to the person other than the donee spouse was made at the same time as the transfer to such spouse, or at any earlier time.

Except as provided in paragraph (b) of § 86.16a, where at the time of the transfer it is impossible to ascertain the particular person or persons who may receive a property interest transferred by the donor, such interest shall, for the purpose of section 1004 (a) (3) (B), be considered as transferred to a person other than the donee spouse. This rule is particularly applicable in the case of the transfer of a property interest by the donor subject to a reserved power. (See section 86.3.) Under this rule, any property interest over which the donor reserved a power to revest the beneficial title in himself, or over which the donor reserved the power to name new beneficiaries or to change the interests of the beneficiaries as between themselves, is, for the purpose of section 1004 (a) (3) (B), considered as transferred to a "person other than the donee spouse". Thus, if a donor transferred property in trust, naming his wife as income beneficiary for 10 years, and providing that, upon the expiration of such term, the corpus should be distributed among his wife and children in such proportions as he should determine, the right to the corpus is, for the purpose of the marital deduction, considered as transferred to a "person other than the donee spouse". Or, if the donor had provided that, upon the expiration of the 10-year term, the corpus was to be paid to his wife, but had reserved the power to revest such corpus in himself instead, the right to the corpus is, for the purpose of the marital deduction, considered as transferred to a "person other than the donee spouse".

Under the above-stated rule, the term "person other than the donee spouse" includes the possible unascertained takers of a property interest, as, for example, the members of a class to be ascertained in the future. As another exam-

ple, assume that the donor created a power of appointment over a property interest, which does not come within the purview of paragraph (b) of § 86.16a. In such a case, the term "person other than the donee spouse" refers to the possible appointees and possible takers in default (other than the spouse) of such property interest.

An exercise or release at any time by the donor (either alone or in conjunction with any person) of a power to appoint an interest in property, even though not otherwise a transfer by him, shall, in determining for the purpose of section 1004 (a) (3) (B) whether he transferred an interest in such property to a person other than the donee spouse, be considered as a transfer by him.

In the following examples it is assumed that the property interest which the donor transferred to a person other than the donee spouse was not for an adequate and full consideration in money or money's worth:

(i) H (the donor) transferred real property to W (his wife) for life, with remainder to A and his heirs. No marital deduction may be taken with respect to the interest transferred to W, since it will terminate upon her death and A (or his heirs or assigns) will thereafter possess or enjoy the property.

(ii) H transferred real property to W for life, and created in W a power, exercisable by will, to appoint the remainder interest to any person. In default of appointment by W, the remainder interest was to go to A and his heirs. Assuming that under the local law W did not take the real property as absolute owner, no marital deduction may be taken with respect to the interest which passed from H to W, since such interest will terminate upon her death and A (or his heirs or assigns) may thereafter possess or enjoy the property. (As to cases in which a marital deduction may be taken where a life interest is coupled with a power to appoint under a trust, see paragraph (b) of § 86.16a.)

(iii) H transferred property in trust for the benefit of W and A. The trust income was payable to W for life, and upon her death the corpus was to be distributed to A or his issue. However, if A should die without issue, leaving W surviving, the corpus was then to be distributed to W. No marital deduction may be taken with respect to the interest transferred to W, since it will terminate in the event of her death if A or his issue survive, and A or his issue will thereafter possess or enjoy the property.

(iv) H purchased for $100,000 a life annuity for W. If the annuity payments made during the life of W should be less than $100,000, further payments were to be made to A. No marital deduction may be taken with respect to the interest transferred to W, since A may possess or enjoy a part of the property following the termination of such interest.

(v) H transferred property to W and A as joint tenants with right of survivorship. No marital deduction may be taken with respect to the interest transferred to W, since, if the tenancy is not severed and A survives W, the interest of W will terminate and A will continue to possess or enjoy the property.

(vi) H transferred property to A for life with remainder to W provided W survives A, but if W predeceases A, the property is to pass to B and his heirs. No marital deduction may be taken with respect to the interest transferred to W.

(vii) H transferred real property to A, reserving the right to the rentals of the property for a term of 20 years. H later transferred the right to the remaining rentals to a trust. The terms of the trust satisfy the five conditions stated in paragraph (b) of § 86.16a, so that the interest transferred in trust is considered as transferred solely to W. No marital deduction may be taken with respect to such interest, since it will terminate upon the expiration of the balance of the 20-year term and A will thereafter possess or enjoy the property.

(viii) H transferred a patent to W and A as tenants in common. In this case, the interest of W will terminate upon the expiration of the term of the patent, but possession and enjoyment of the property by A must necessarily cease at the same time. Therefore, since A's possession or enjoyment cannot outlast the termination of W's interest, the provisions of section 1004 (a) (3) (B) do not disallow the marital deduction with respect to such interest.

(c) *Interest in property which the donor may possess or enjoy.* Section 1004 (a) (3) (B) also provides that no marital deduction shall be allowed with respect to the transfer to the donee spouse of a "terminable interest" in property, in case:

(1) The donor retained in himself an interest in the same property, and

(2) By reason of such retention, the donor (or his heirs or assigns) may possess or enjoy any part of such property after the termination or failure of the interest therein transferred to the donee spouse.

However, section 1004 (a) (3) (D) provides that if a property interest is transferred to the donee spouse as sole joint tenant with the donor or as tenant by the entirety, the interest of the donor in the property which exists solely by reason of the possibility that the donor may survive the donee spouse, or that there may occur a severance of the tenancy, is not for the purposes of section 1004 (a) (3) (B), to be considered as an interest retained by the donor in himself.

Under this provision, the fact that the donor may, as surviving tenant, possess or enjoy the property after the termination of the interest therein transferred to the donee spouse does not preclude the allowance of the marital deduction with respect to the latter interest.

In general, the principles illustrated by the examples under paragraph (b) of this section are applicable in determining whether the marital deduction may be taken with respect to a property interest transferred to the donee spouse subject to the retention by the donor of an interest in the same property.

Example. The donor purchased three annuity contracts for the benefit of his wife and himself. The first contract provided for payments to the wife for life, with refund to the donor in case the aggregate payments made to the wife were less than the cost of the contract. The second contract provided for payments to the donor for life, and then to the wife for life if she survived the donor. The third contract provided for payments to the donor and his wife for their joint lives, and then to the survivor of them for life. No marital deduction may be taken with respect to the gifts consummated by the purchases of the contracts since, in the case of each contract, the donor may possess or enjoy a part of the property after the termination or failure of the interest therein transferred to the wife.

(d) *Interest in property over which the donor retained a power to appoint.* Section 1004 (a) (3) (B) also provides that no marital deduction shall be allowed with respect to the transfer to the donee spouse of a "terminable interest" in property, in case:

(1) The donor had, immediately after such transfer, a power to appoint an interest in the same property, and

(2) Such power was exercisable (either alone or in conjunction with any person) in such manner that the appointee may possess or enjoy any part of such property after the termination or failure of the interest therein transferred to the donee spouse.

For the purposes of section 1004 (a) (3) (B), the donor is to be considered as having, immediately after the transfer to the donee spouse, such a power to appoint even though such power cannot be exercised until after the lapse of time, upon the occurrence of an event or contingency, or upon the failure of an event or contingency to occur. It is immaterial whether the power retained by the donor was a taxable power of appointment under section 1000 (c).

In general, the principles illustrated by the examples under paragraph (b) of this section are applicable in determining whether the marital deduction may be taken with respect to a property interest transferred to the donee spouse subject to retention by the donor of a power to appoint an interest in the same property.

Example. The donor, having a power of appointment over certain property, appointed a life estate therein to his spouse. No marital deduction may be taken with respect to such transfer, since, if the retained power is exercised, the appointee thereunder may possess or enjoy the property after the termination or failure of the interest taken by the donee spouse.

(e) *Interest payable out of a group of assets.* Section 1004 (a) (3) (C) provides that where the assets out of which, or the proceeds of which, an interest transferred to the donee spouse may be satisfied include a particular asset or assets with respect to which no deduction would be allowed if such asset or assets were transferred from the donor to such spouse, then the value of the interest transferred to such spouse shall, for the purpose of the marital deduction, be reduced by the aggregate value of such particular assets.

In order for the foregoing provision to apply, two circumstances must coexist, as follows:

(1) The property interest transferred to the donee spouse must be payable out of a group of assets. An example of a

property interest payable out of a group of assets is a right to a share of the corpus of a trust upon its termination.

(2) The group of assets out of which the property interest is payable must include one or more particular assets which, if transferred by the donor to the donee spouse, would not qualify for the marital deduction.

If the above circumstances are both present, the marital deduction with respect to such property interest may not exceed one-half of the excess, if any, of its value over the aggregate value of the particular asset or assets which, if transferred to the donee spouse, would not qualify for the marital deduction.

§ 86.16c *Gift of community property*—(a) *General.* The marital deduction is allowable with respect to any transfer by a donor to his spouse only to the extent that such transfer can be shown to represent a gift of property which was not, at the time of the gift, held as "community property", as defined in paragraph (b) of this section. The burden of establishing the extent to which a transfer represents a gift of property not so held rests upon the donor.

(b) *Definition of "community property".* For the purpose of paragraph (a) of this section, the term "community property" is considered to include:

(1) Any property held by the donor and his spouse as community property under the law of any State, Territory, or possession of the United States, or of any foreign country, except such property in which the donee spouse had at the time of the gift merely an expectant interest. The donee spouse is regarded as having, at any particular time, merely an expectant interest in property held at such time by the donor and herself as community property under the law of any State, Territory, or possession of the United States, or of any foreign country, if, in case such property were transferred by gift into the separate property of the donee spouse, the entire value of such property (and not merely one-half thereof) would be treated as the amount of the gift.

(2) Separate property acquired by the donor as a result of a "conversion" (during the calendar year 1942 or after April 2, 1948) of property held by him and the donee spouse as community property under the law of any State, Territory, or possession of the United States, or of any foreign country, (except such property in which the donee spouse had at the time of the "conversion" merely an expectant interest) into their separate property.

(3) Property acquired by the donor in exchange (by one exchange or a series of exchanges) for separate property resulting from such a "conversion".

A "conversion" of community property is any transfer of property from the marital community, whereby each spouse acquired separate property. A conversion includes a partition of community property between the donor and the donee spouse or a transfer of community property to themselves in joint tenancy, tenancy by the entirety, or other form of co-ownership, whether such partition or other conversion was effected by a single transaction or a series of transactions. Where each spouse acquired separate property of equal value as a result of a conversion, the entire separate property thus acquired by the donor is to be considered, for the purposes of this section, as held by him and the donee spouse as community property. Where the value (at the time of the conversion) of the separate property so acquired by the donor exceeded the value (at such time) of the separate property so acquired by the donee spouse, only a part of the separate property so acquired by the donor (and only the same fractional part of property acquired by him in exchange for such separate property) is to be considered, for the purposes of this section, as held by him and the donee spouse as community property. The part of such separate property (or property acquired in exchange therefor) which is considered as so held is the same proportion thereof which the value (at the time of the conversion) of the separate property so acquired by the donee spouse is of the value (at such time) of the separate property so acquired by the donor.

Example. On November 1, 1942, the donor and his spouse partitioned certain real property held by them under community property laws. The real property then had a value of $224,000. A portion of such property, then having a value of $160,000, was converted into the donor's separate property, and the remaining portion, then having a value of $64,000, was converted into his spouse's separate property. On August 1, 1948, the donor made a gift to his spouse of the property acquired by him as a result of the partition, which property then had a value of $200,000. The portion of the property transferred by gift which is considered as "community property" is:

$$\frac{64,000}{160,000} \times \$200,000 = \$80,000.$$

The marital deduction with respect to the gift is, therefore, limited to one-half of the difference between $200,000 (the value of the gift) and $80,000 (the portion of the gift considered to have been of "community property"). The marital deduction with respect to the gift is, therefore, $60,000.

§ 86.16d *Proof required.* The donor must submit such proof as is necessary to establish the right to the marital deduction, including any evidence requested by the Commissioner.

PAR. 9. Section 86.20 is amended as follows:

(A) By striking the heading and by inserting in lieu thereof the following: *"Persons required to file return*—(a) *In general."*

(B) By inserting at the end thereof the following paragraph:

(b) In case of consent under section 1000 (f). Except as otherwise provided herein, the provisions of paragraph (a) of this section are applicable with respect to the filing of a gift tax return or returns for the calendar year 1948 or any subsequent calendar year in the case of a husband and wife who consent (see § 86.3a) to the application of the provisions of section 1000 (f) for such year. In such cases, if both of the consenting spouses are (without regard to the provisions of section 1000 (f)) required under the provisions of paragraph (a) of this section to file returns for such year, returns must be filed by both spouses. If only one of the consenting spouses is (without regard to the provisions of section 1000 (f)) required under the provisions of such paragraph (a) to file a return for such year, a return must be filed by such spouse. In the latter case, if after giving effect to the provisions of section 1000 (f) the other spouse is considered to have made any gift (regardless of value) of a future interest in property or any gift or gifts to any one third-party donee exceeding $3,000 in value then a return for such year must also be filed by such other spouse. Thus, if during any such calendar year the husband made a gift of $5,000 to a son and the wife made no gifts, only the husband is required to file a return for such year. However, if the wife had made a gift of $2,000 to the same son, or if the gift made by the husband had amounted to $7,000, each spouse would be required to file a return in the event consent is signified as provided under section 1000 (f).

PAR. 10. Section 86.21, as amended by Treasury Decision 5608, approved March 19, 1948, is further amended by inserting immediately preceding the last sentence thereof the following sentence: "Where a husband and wife consent (or contemplate consenting) that gifts made by either of them to third-party donees during the calendar year 1948 or any subsequent calendar year shall be considered as made one-half by each spouse, as provided by section 1000 (f), the notice on Form 710 shall, nevertheless, identify the actual donor."

PAR. 11. Section 86.23 is amended by inserting immediately after the sixth sentence thereof the following: "If the return is filed for the calendar year 1948 or for any calendar year thereafter and the donor and his spouse consent (see § 86.3a) to the application of the provisions of section 1000 (f) for such year the return must set forth, to the extent provided thereon, information with respect to transfers made by each spouse."

PAR. 12. Section 86.34 is amended by inserting immediately after the third sentence thereof the following: "If a husband and wife effectively signify consent (see section 86.3a) to the application of the provisions of section 1000 (f) for any calendar year, the liability with respect to the entire gift tax of each spouse for such calendar year shall be joint and several."

[F. R. Doc. 48-9766; Filed, Nov. 5, 1948; 9:02 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR, Part 49]

TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board a revision of Part 49 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. All communications received by December 15, 1948, will be considered by the Board before taking further action on the proposed rule.

The principal reasons for proposing a revision of Part 49 are explained in the explanatory statement.

The proposed revision of Part 49 is set forth below in the proposed rule.

This revision is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Secs. 205 (a), 601–610, 52 Stat. 984, 1007–1012; 49 U. S. C. 425 (a), 551–560)

Dated: October 23, 1948 at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director.

Explanatory statement of Part 49. Present Part 49 provides for the transportation by air of certain articles commonly classified as explosives or dangerous articles. Since the carriage of explosives and other dangerous articles is seldom accomplished entirely by air transportation, but generally is combined with some form of surface transportation to bring the items to the aircraft and to take them away after the air lift, it was necessary that applicable Civil Air Regulations governing the transportation of such cargo be coordinated with the Interstate Commerce Commission Regulations which regulate the carriage of such articles by the principal surface carriers. Thus, in promulgating Part 49 in 1945, the Board adopted the various classifications of dangerous articles and the packaging and labeling requirements of the pertinent Interstate Commerce Commission Regulations as effective January 7, 1941.

Part 49 permitted the transportation by air of only a limited number of these articles acceptable for surface transportation. This limitation was due to the fact that in 1945 cargo-only operations had not been developed and, therefore, the additional factor of passenger as well as plane and crew safety had to be considered for each article for which carriage was authorized. It also was believed that a service experience period with a limited number of acceptable articles would be desirable. This service experience indicates that air cargo is seldom, if ever, exposed to more extreme conditions than surface transported cargo. Therefore, in view of the rapid growth of air cargo operations, particularly in aircraft carrying cargo only, and the scientific progress made in the development of new materials within the scope of this part which require rapid transportation and which can be adequately packed for safe transportation by air, the desirability for revising present Part 49 is evident.

In determining what additional items may be safely transported by air the Bureau of Safety Regulation has consulted with the Bureau of Explosives, a nonprofit private organization devoted to establishing safe transportation practices for explosives and other dangerous articles, and transportation experts of the Air Transport Association. On the basis of the known reactions of explosives and other dangerous articles to variations and extremes of temperature, pressure, and shock experienced in transit, certain articles have been selected as safe for carriage by air. With few exceptions these articles include all those which may be shipped by rail express or rail freight, although there are certain limitations prescribed on the amounts of some of these substances which may be shipped in cargo aircraft and additional limitations for aircraft carrying passengers.

While it is believed that the items deemed acceptable in the attached proposed rule are those which may be safely carried, further laboratory tests are being conducted by responsible industry and government agencies, and as results of these tests are made known some additional items may be added to those which may be carried. It will be noted that this procedure is similar to the one followed by the Interstate Commerce Commission. On behalf of the Commission, the Bureau of Explosives analyzes new products and new packaging methods as they are developed in order to permit new items to be shipped by surface transportation and to improve the safety with which existing items are carried. The conditions presently prescribed by the Bureau of Explosives for rail express safely meet actual conditions encountered in air transportation with the possible exception of certain pressure tolerances. With respect to the effect of reduced pressure encountered at high altitudes or rapid changes of pressure on articles the pressure tolerances of which may be critical, the Air Forces are doing further scientific testing at Wright Field. Until these experiments are completed such articles will not be listed as acceptable for air transportation. The conclusions of these tests will be reflected in proposed regulations as soon as the results are made known. The Bureau of Explosives and the Air Transport Association have agreed to furnish the Bureau of Safety Regulation with such information as they may obtain from time to time with respect to the handling of explosives or other dangerous cargo, and the Bureau intends to recommend to the Board appropriate changes in the lists of acceptable articles for air transportation on the basis of this information and such other data as is available to it. In this manner it is believed that lists of acceptable articles may be kept current.

Generally the proposed new part differs from present Part 49 in the following manner. The part will base Civil Air Regulations on the provisions of current ICC Regulations rather than those in effect on a particular date. It will distinguish between articles acceptable on aircraft carrying passengers and articles which may be carried on cargo-only operations. The revised part also will not only permit a proportionately larger number of articles to be carried in cargo-passenger operations but will greatly increase the articles acceptable in cargo-only operations, permitting in the latter case the carriage of practically all articles acceptable for rail express.

For passenger-carrying aircraft, only those items specifically listed in § 49.4 of the proposed rule may be carried. The part specifies the packaging and labeling requirements for each of these items since many of these articles are exempt from the usual ICC Regulations packaging and labeling requirements. New articles to be carried in passenger aircraft would have to be added by amendment of the part.

For cargo-only aircraft, in addition to articles which may be carried in passenger aircraft, any article may be carried which is listed as acceptable for rail express in Part 2 of the ICC Regulations provided that its carriage is not prohibited by § 49.6. From time to time as new articles are added to this list in the ICC Regulations, they may be carried in cargo aircraft: *Provided*, That Part 49 is not amended to prohibit such carriage. In all operations, the revised part would require explosives and other dangerous articles to be packed, labeled, and loaded as specifically provided therein or in accordance with the requirements of the ICC Regulations for rail express. We have proposed that the packing requirements for rail express be used because they are considered more appropriate for air transportation than those applicable to rail freight, as they provide a higher margin of safety against changes in temperature, pressure, and inadvertent damage and shock while in transit.

It is believed that the safety standards established by this proposed revision are adequate for all known extremes of temperature, pressure, and shock encountered in normal flight by United States operated aircraft throughout the world. However, some special operations may require additional safeguards. When such conditions exist, it would be the responsibility of the operator of the aircraft to evaluate these conditions for a particular operation and to require such special packaging and handling as may be necessary to insure safety.

The proposed rule is as follows:

PART 49—TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

§ 49.0 *Applicability of part.* Explosives or other dangerous articles, including inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, compressed gases, and poisonous substances, shall not be loaded in or transported by aircraft in the United States, or transported anywhere in aircraft of United States registry except as hereinafter provided.

§ 49.1 *Definitions.* (a) As used in this part the words listed below shall be defined as follows:

(1) *Explosives.* Those liquids, gases, or solids specified as forbidden, Class A, Class B, or Class C explosives by the ICC Regulations.

(2) *Inflammable liquid.* An inflammable liquid is any liquid which gives off inflammable vapors (as determined by

flash point from Tagliabue's open-cup tester, as used for test of burning oils) at or below a temperature of 80° F.

(3) *Inflammable solid.* An inflammable solid is a solid substance, other than one classified as an explosive, which is liable, under conditions incident to transportation, to cause fires through friction, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from the manufacturing or processing.

(4) *Oxidizing material.* An oxidizing material is a substance, such as a chlorate, permanganate, peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter.

(5) *Corrosive liquids.* Corrosive liquids are those acids, alkaline caustic liquids, and other corrosive liquids, which, when in contact with living tissue, will cause severe damage of such tissue by chemical action; or which, in case of leakage, will materially damage the aircraft structure or cargo; or which are liable to cause fire when in contact with organic matter or with certain chemicals.

(6) *Compressed gas.* A compressed gas is defined as any material with a gauge pressure exceeding 40 pounds per square inch absolute at 70° F. or any liquid inflammable material having a Reid[1] vapor pressure exceeding 40 pounds per square inch at 100° F.

(7) *Poisonous articles.* Poisonous articles for the purpose of these regulations are divided into four classes defined as follows:

(i) *Extremely dangerous poisons. Class A.* Poisonous gases or liquids of such nature that a very small amount of gas, or vapor of the liquid, mixed with air is dangerous to life. This class includes: Acrolein, chlorpicrin, cyanogen, diphosgene, ethyldichlorarsine, hydrocyanic acid, lewisite, methyldichlorarsine, mustard gas, nitrogen peroxide (tetroxide), phenylcarbylamine chloride, phosgene (diphosgene). (Dilute solutions of hydrocyanic acid of not exceeding 5% strength are classed as poisonous articles, Class B).

(ii) *Less dangerous poisons; Class B.* Poisonous liquids and solids, including pastes and semi-solids, are substances of such nature that they are chiefly dangerous by external contact with the body or by their being taken internally as in contaminated food or feeds.

(iii) *Tear gas or irritating substances; Class C.* Tear gases are liquid or solid substances which upon contact with fire or when exposed to air give off dangerous or intensely irritating fumes, such as brombenzylcyanide, chloracetophenone, diphenylaminechlorarsine, and diphenylchlorarsine, but not including any poisonous article, Class A.

(iv) *Radioactive materials; Class D.* A radioactive material is any material or combination of materials which spontaneously emits ionizing radiation. For the purposes of these rules, radioactive materials are divided into three groups, according to the type of radiation emitted at any time during transportation, as follows:

(a) Group I radioactive materials are those materials which emit gamma radiation alone, or both gamma radiation and radiation of electrically charged material particles or corpuscles.

(b) Group II radioactive materials are those materials which emit neutrons and either or both of the types of radiation characteristic of Group I radioactive materials.

(c) Group III radioactive materials are those materials which emit only electrically charged material particles or corpuscles (i. e., alpha and/or beta radiation).

(8) *"Unit" of gamma radiation.* Unit of gamma radiation is one milliroentgen per hour at a meter for hard gamma radiation, or that amount of gamma radiation which will have the same effect on sensitive photographic film as one milliroentgen per hour at a meter of hard gamma radiation of radium filtered through ½ inch of lead.

(9) *Passenger-carrying aircraft.* Passenger-carrying aircraft are aircraft carrying any individuals who are not assigned to duty on the aircraft.

(10) *Marking.* Marking is the display on the container of the name of the articles inside, as listed in the commodity list of the ICC Regulations.

(11) *Labeling.* Labeling is the display on the container of an appropriate label as specified for a particular class of articles by the ICC Regulations.

(12) *ICC Regulations.* ICC Regulations shall mean the "Interstate Commerce Commission's Regulations for Transportation of Explosives and Other Dangerous Articles by Land and Water in Rail Freight, Express, and Baggage Services, and by Motor Vehicles (Highway), and Water," effective January 7, 1941, as amended from time to time.

§ 49.3 *Packing, marking, and labeling requirements.* (a) Unless otherwise specifically provided in this part explosives or other dangerous articles shipped by air shall be packed, marked, and labeled, as required by Part 2[2] of the ICC Regulations for transportation by rail express: *Provided,* That liquids shall be packed only in inside containers which are securely closed, sufficient in strength to prevent any leakage or distortion of the containers caused by change in temperature or altitude during transit, and so filled as to provide adequate outage. All explosives or other dangerous articles shipped by air shall show the proper shipping name as shown in the commodity list of Part 2 of the ICC Regulations and any instructions that are necessary for safe handling.

(b) *Shipper statement.* No shipper shall offer and no air carrier or other operator of aircraft shall knowingly accept explosives or dangerous articles for carriage by air unless the shipper or his authorized agent has certified that the shipment complies with the requirements of this part. Any operator of aircraft may rely on such a certificate as prima facie evidence that the shipment so certified complies with the requirements of this part.

§ 49.4 *Acceptable explosives and other dangerous articles on aircraft carrying passengers.* No explosives or other dangerous articles shall be carried in passenger-carrying aircraft except as provided below:

(a) Explosives Class C may be carried: *Provided,* That blasting caps, electric blasting caps, and blasting caps with safety fuse shall not be carried. The maximum quantity that may be packed in one outside container is 50 pounds. The maximum quantity which may be packed in one cargo location is 50 pounds. Marking required.

(b) Explosives Class B may be carried if they are intended for use as safety equipment in the operations of the air carrier. Marking required.

(c) Inflammable liquids may be carried: *Provided,* That carbon bisulfide, ethyl chloride, ethylene oxide, nickel carbonyl, spirits of nitroglycerine in excess of 1% by weight, and zinc ethyl shall not be carried.

(1) Inflammable liquids may be carried in quantities of not more than one quart when packed in inside metal containers, or in quantities of not more than one pint or 16 ounces by weight when packed in inside glass or earthernware containers: *Provided,* That each such container shall be packed in a strong outside container with cushioning and absorbent material where necessary to prevent breakage and leakage. The maximum quantity that may be carried in any one cargo location is 3 gallons. Marking and red label required.

(2) Viscous inflammable liquids, such as cements, mastics, sealers, etc., may be carried in collapsible tubes not exceeding 8 ounces each, packed in strong outside containers with not more than 16 ounces net weight of such liquids in any one outside container. The maximum quantity which may be carried in any one cargo location is 25 pounds. Marking and red label required.

(d) Inflammable solids and oxidizing materials may be carried in accordance with the following requirements, provided that the items listed in subparagraphs (1) through (6) of this paragraph shall be specially handled as provided therein. They shall be packed in quantities of not more than 16 oz. net weight in inside metal or glass containers, suitably cushioned with noninflammable cushioning material where necessary to prevent breakage. The maximum quantity that may be packed in any outside container is 25 lbs. The maximum quantity that may be carried in one cargo location is 25 lbs. Marking and yellow label required.

(1) Liquid or solid organic peroxides may be carried only when packed in inside containers not over one lb. or one pint in capacity, and not more than one such container securely packed with incombustible cushioning in a strong outside container. Acetyl benzoyl peroxide solid and benzoyl peroxide shall not be carried. Not more than 10 such packages may be placed in any one cargo lo-

[1] American Society for Testing Materials tentative method of test for vapor pressure of petroleum products (Reid Method) (D-323-38 T).

[2] Part 2 of the ICC Regulations incorporates the packaging specifications of Part 3 thereof.

cation. (See corrosive liquids for hydrogen peroxide.)

(2) Calcium hypochlorite, dry, containing more than 8.80% available oxygen (39% available chlorine) may be carried only when packed in inside glass or metal containers of not over 5 lb. capacity, each such container shall be packed in strong outside containers of 75 lbs. maximum gross weight. The maximum quantity that may be carried in any one cargo location is 150 lbs.

(3) Matches, stroke-on-box, book, or card in outside fiberboard or wooden boxes, may be carried when marked with name of contents, labeled, and enclosed in tightly closed metal inside containers. The maximum quantity that may be packed in any outside container is 25 lbs. The maximum quantity that may be carried in any one cargo location is 25 lbs.

(4) Picrate of ammonia, picric acid, urea, nitrate, trinitrobenzene, and trinitrotoluene, wet with not less than 10% water, may be carried only in quantities not exceeding 16 oz. in any one outside package when shipped as drugs, medicines, or chemicals and when enclosed in a strong fibre carton properly cushioned in an outside shipping case. Not more than 10 such containers may be placed in any one cargo location.

(5) Pyroxylin plastics may be carried only when securely enclosed in air-tight metal cans or boxes. The maximum quantity that may be carried in any outside containers, 25 lbs. Not more than 100 lbs. may be placed in any one cargo location.

(6) Motion picture film may be carried when packed, marked, and labeled in accordance with ICC Regulations.

(e) Poisonous liquids, Class B, may be carried: *Provided*, That hydrocyanic acid, methyl bromide (motor fuel antiknock compound), phenyldichlorarsine and tetraethyl lead shall not be carried. Quantities of not more than one pint may be packed in glass containers, or not more than one quart in metal containers: *Provided*, That each such container shall be packed in strong outside wooden or fibre board containers. The maximum quantity that may be carried in any cargo location is 10 packages. Marking and poison label required.

(f) Poisonous solids, Class B, Cyamides may be carried only when packed in inside glass, earthenware, or metal containers, or lock-corner sliding lid wooden boxes lined to prevent sifting, of not more than 5 lbs. capacity each; or in chipboard, pasteboard, or fibre cartons, cans, or boxes of not over one pound capacity each when packed in outside containers. The maximum quantity that may be carried in one cargo location is 30 lbs.

(g) Radioactive materials, Class D: Groups I, II and III (liquid, solid, or gaseous) may be carried when packed, marked, and labeled in accordance with ICC Regulations Secs. 366–369. (Also see § 49.7 where certain other types of radioactive materials are exempted from the requirements of this part.)

(h) Acids and other corrosive liquids may be carried provided that bromine, dimethyl sulfate, electrolyte acid or alkaline battery fluid packed with storage batteries, battery chargers, or radio current supply devices, hydrogen peroxide over 5% strength by weight, nitric acid, phosphorous tribromide, phosphorous trichloride, and sulfur chloride shall not be carried. Quantities of not more than one lb. or one pint may be carried in bottles which are enclosed in a metal can in a strong outside package securely packed and padded, with noninflammable absorbent material, where necessary to prevent breakage. Not more than 10 such packages may be carried in any one cargo location. Marking and white label required.

(i) Electric storage batteries, containing electrolyte or corrosive battery fluid, of the nonspillable type, protected against short circuits and completely and securely boxed, may be carried. Marking and labeling required.

(j) Noninflammable compressed gases may be carried: *Provided*, That anhydrous ammonia, chlorine, boron trifluoride, hydrogen bromide, hydrogen chloride, nitrosyl chloride, and sulfur dioxide shall not be carried. Maximum cylinder pressure permited is 1800 psi in ICC-approved cylinders not exceeding 12 inches in diameter by 51 inches long. The maximum quantity that may be carried on one cargo location is 150 lbs. Marking and green label required.

§ 49.5 *Articles which may be carried in all-cargo operations.* In addition to the articles acceptable for transportation under § 49.4, any article packed, marked, and labeled in accordance with the ICC Regulations for transportation by rail express may be carried in quantities not exceeding those prescribed in the commodity list of Part 2 of the ICC Regulations.

§ 49.6 *Prohibited articles.* No explosive or dangerous article listed in Part 2 of the ICC Regulations as an Explosive A, a Poison A, a forbidden article, or an article not acceptable for rail express, nor any item listed in Appendix A of this part shall be carried on aircraft subject to the provisions of this part.

§ 49.7 *Exempted articles.* (a) The articles listed below shall be exempted from the provisions of this part:

(1) Signalling devices,

(2) Equipment necessary for the safe operation of the aircraft,

(3) Small arms ammunition in moderate quantities for personal use of crew members.

(b) Radioactive materials which meet all of the following conditions are exempt from packing, marking, and labeling requirements required by this part:

(1) The package must be such that there can be no leakage of radioactive material under conditions normally incident to transportation.

(2) The package must contain not more than 0.1 millicuries of radium, or polonium, or that amount of strontium 89, strontium 90, or barium 140 which disintegrates at a rate of more than 5 million atoms per second; or not more than that amount of any other radioactive substance which disintegrates at a rate of more than 50 million atoms per second.

(3) The package must be such that no significant alpha, beta, or neutron radiation is emitted from the exterior of the package and the gamma radiation at any surface of the package must be less than 10 milliroentgens for 24 hours.

(c) Manufactured articles other than liquids, such as instrument or clock dials of which radioactive materials are a component part, and luminous compounds, when securely packed in strong outside containers are exempt from packing, marking, and labeling requirements provided the gamma radiation at any surface of the package is less than 10 milliroentgens in 24 hours.

(d) Radioactive materials, such as ores, residues, etc., of low activity, packed in strong, tight containers are exempt from packing and labeling requirements when shipped in planeload lots: *Provided*, The per-package surface intensity of radiation does not exceed 200 milliroentgens per hour or equivalent: *And provided*, The per planeload radiation intensity at one meter from any outside surface of the load does not exceed 10 milliroentgens per hour of gamma radiation or equivalent. There shall be no loose radioactive material in the airplane and the shipment must be braced and lashed so as to prevent leakage or shift of lading under normal conditions of flight.

§ 49.8 *Loading requirements*—(a) *General.* Two or more shipments of explosives or other dangerous articles shall not be carried together in the same cargo location if they are of such a nature that their admixture in the event of spillage of one or more of the shipments could present a substantially more hazardous condition than the spillage of either or both of the shipments without mixing. Articles shall be loaded in accordance with the provisions of the loading chart set forth in section 533 of the ICC Regulations.

(b) *Special requirements for radioactive materials.* (1) Whenever any shipment of materials appears damaged, or is damaged, it will be removed from transportation and segregated as far as possible from human contact. The shipper will immediately be contacted for disposal instructions.

(2) Whenever there is any actual spillage of the contents of any shipment of radioactive materials, there will be no attempt to clean it up. The shipper will immediately be contacted for disposal instructions. If the spillage has occurred in an aircraft, the aircraft will be isolated, the nearest representative of the Administrator or the Board, and the shipper will immediately be contacted, and no one other than properly authorized personnel of the shipper and/or the CAA or CAB will be allowed within the aircraft until it has been decontaminated and made fit for occupancy.

(3) In case of fire, wreck, or other unusual delay, the carrier must notify the shipper and the Administrator or the Board that radioactive material, Class D Poison, was on board.

(4) Radioactive materials Groups I and II (Red label) shall be loaded in the aircraft in accordance with the table set

forth below provided that not more than 40 units thereof may be carried:

Total No. of Units: [1]	Minimum distance to crew members and passengers (feet) [2]
0–2	1
3–5	2
6–10	3
11–20	4
21–30	5
31–40	6

[1] Total number of units refers to the number found on the red label of a single package entered on the line reading "Radiation Units from Package: No. —." For two or more packages stored together, the total of the numbers of all such packages is meant.

[2] Distance means the number of feet from the center of the nearest radioactive container.

§ 49.9 *Special authority.* In emergency situations or where other forms of transportation are impracticable, deviations from the provisions of this part for a particular flight may be authorized by the Administrator where he finds that the conditions under which the articles are to be carried are such as to permit the safe carriage of persons and cargo.

APPENDIX A—ITEMS NOT TO BE CARRIED BY AIR IN EITHER CARGO OR PASSENGER OPERATIONS UNLESS UNDER CONDITIONS SPECIFICALLY APPROVED BY THE ADMINISTRATOR

	Classed as—
The following explosives:	
A. Ammunition for cannon	Expl. B.
B. Blasting caps including electric blasting caps	Expl. C.
C. Blasting caps with safety fuse	Expl. C.
D. Incendiary grenades	Expl. B.
E. Jet thrust units, Class B	Expl. B.
F. Rocket ammunition, Class B	Expl. B.
And the following dangerous articles:	
Acrelein	Inf. L.
Benzoyl peroxide	Oxy. M.
Burnt cotton (not repicked)	Inf. S.
Burnt fiber	Inf. S.
Carbon bisulfide (disulfide)	Inf. L.
Carbopropexide stabilized	Cor. L.
Charcoal, wood, screenings, other than pinon wood screenings	Inf. S.
Cotton waste, oily, with more than 5% animal or vegetable oil	Inf. S.
Fish scrap or fishmeal containing less than 6% or more than 12% moisture	Inf. S.
Garbage tankage cantaining less than 8% moisture	Inf. S.
Hair, wet	Inf. S.
Iron mass, spent	Inf. S.
Iron sponge—not properly oxidized	Inf. S.
Iron sponge, spent	Inf. S.
Matches, strike anywhere	Inf. S.
Motion picture film scrap—nitrocellulose	Inf. S.
Nickel carbonyl	Inf. L.
Paper stock, wet	Inf. S.
Rags, oily	Inf. S.
Rags, wet	Inf. S.
Rough ammoniate tankage	Inf. S.
Spent oxide	Inf. S.
Tankage fertilizers	Inf. S.
Tankages, rough ammoniate	Inf. S.
Textile waste, wet	Inf. S.
Waste paper, wet	Inf. S.
X-ray film scrap (nitrocellulose base)	Inf. L.
Zinc ethyl	Inf. L.

[F. R. Doc. 48–9751; Filed, Nov. 5, 1948; 9:00 a. m.]

NOTICES

INTERDEPARTMENTAL COMMITTEE ON TRADE AGREEMENTS

TRADE-AGREEMENT NEGOTIATIONS WITH DENMARK, DOMINICAN REPUBLIC, EL SALVADOR, FINLAND, GREECE, HAITI, ITALY, NICARAGUA, PERU, SWEDEN, AND URUGUAY; POSSIBLE ADJUSTMENTS IN PREFERENTIAL RATES ON CUBAN PRODUCTS

Pursuant to section 4 of the Trade Agreements Act approved June 12, 1934, (48 Stat. (pt. 1) 945, ch. 474) as extended and amended by the Trade Agreements Extension Act of 1948 (Pub. Law 792—80th Cong.) and to paragraph 4 of Executive Order 10004 of October 5, 1948 (13 F. R. 5853), notice is hereby given by the Interdepartmental Committee on Trade Agreements of intention to conduct trade-agreement negotiations with each of the following countries, including in each case areas in respect of which the country has authority to conduct trade-agreement negotiations: Denmark, Dominican Republic, El Salvador, Finland, Greece, Haiti, Italy, Nicaragua, Peru, Sweden, and Uruguay. It is proposed to enter into negotiations with these countries with a view to their accession as contracting parties to the General Agreement on Tariffs and Trade.

There is annexed hereto a list of articles imported into the United States to be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or specific continuance of existing customs or excise treatment in the proposed trade-agreement negotiations with each of the above countries, each of which lists has been approved by the President and transmitted to the United States Tariff Commission, pursuant to paragraph 4 of Executive Order 10004. In the case of an article in one or more of these lists with respect to which the corresponding product of Cuba is now entitled to preferential treatment, a modification of the rate in the negotiations referred to will involve the elimination, reduction, or continuation of the preference, perhaps in some cases with an adjustment or specification of the rate applicable to the product of Cuba.

No tariff concession will be considered in the negotiations with any country on any article which is not included in the annexed list relative to such country unless it is subsequently included in a supplementary public list approved by the President and transmitted to the Tariff Commission. No duty or import tax imposed under a paragraph or section of the Tariff Act or Internal Revenue Code other than the tariff paragraph listed with respect to such article will be considered for a possible decrease, although an additional or separate duty on an article included in an annexed list, which is imposed under a paragraph or section other than that listed, may be bound against increase as an assurance that the concession under the listed paragraph or section will not be nullified.

Pursuant to section 3 of the Trade Agreements Extension Act of 1948, information and views as to the matters specified in that section may be submitted to the United States Tariff Commission in accordance with the announcement of this date issued by the Commission.[1] Pursuant to section 4 of the Trade Agreements Act, as amended, and paragraph 6 of Executive Order 10004 of October 5, 1948, information and views as to any aspect of the proposals announced in this notice may be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date issued by that Committee.[2] Arrangements are being made to coordinate the hearings to be held by the Tariff Commission and the Committee for Reciprocity Information in order to facilitate the convenience of persons desiring to appear at both hearings. Information and views submitted to the Tariff Commission, except those accepted by the Commission as confidential, will be made available to the Committee for Reciprocity Information although, on account of the statutory requirement as to the investigation by the Tariff Commission, persons and groups who wish to be assured that their information and views will be considered by the Tariff Commission should present them directly to the Commission.

By direction of the Interdepartmental Committee on Trade Agreements this 5th day of November 1948.

WOODBURY WILLOUGHBY,
Chairman.

LISTS OF ARTICLES IMPORTED INTO THE UNITED STATES WHICH IT IS PROPOSED SHOULD BE CONSIDERED IN TRADE AGREEMENT NEGOTIATIONS WITH THE COUNTRIES SPECIFIED THEREIN

Each of the following lists contains descriptions of articles imported into the United States which it is proposed should be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or specific continuance of existing customs or excise treatment in the trade agreement negotiations which are proposed with the country specified at the beginning of such list.

For the purpose of facilitating identification of the articles listed, reference is made in each list to the paragraph numbers of the tariff schedules in the Tariff Act of 1930. The descriptive phraseology is frequently limited to a narrower scope than that covered by the numbered tariff paragraph. In

[1] See F. R. Doc. 48–9748, United States Tariff Commission, *infra.*

[2] See F. R. Doc. 48–9748, Committee for Reciprocity Information, *infra.*

such cases only the articles covered by the descriptive phraseology of the list will come under consideration for the granting of concessions.

In the event that an article which as of September 1, 1948 was regarded as classifiable under a description included in one or more of the lists is excluded therefrom by judicial decision or otherwise prior to the inclusion of such description in a trade agreement, the list or lists will nevertheless be considered as including such article.

DENMARK

Tariff Act of 1930 Par.	*Item*
353	Articles having as an essential feature an electrical element or device, and parts thereof, finished or unfinished, wholly or in chief value of metal, and not specially provided for: Internal combustion engines, other than carburetor type, if of the horizontal type and weighing over 5,000 pounds each, and parts thereof. Internal combustion engines, other than carburetor type, and not of the horizontal type, weighing over 2,500 pounds each, and parts thereof.
355	Knives, forks, steels, and cleavers, of a class or kind provided for in paragraph 355, Tariff Act of 1930, with handles of silver (other than plated with silver) or other metal than aluminum, nickel silver, iron or steel, all the foregoing not specially designed for other than household, kitchen, or butchers' use.
372	All other machines, finished or unfinished, not specially provided for, and parts thereof wholly or in chief value of metal or porcelain, not specially provided for: Internal combustion engines, other than carburetor type, if of the horizontal type and weighing over 5,000 pounds each, and parts thereof. Internal combustion engines, other than carburetor type, and not of the horizontal type, weighing over 2,500 pounds each, and parts thereof.
397	Articles or wares not specially provided for, whether partly or wholly manufactured: Composed wholly or in chief value of silver.
412	Spring clothespins.
710	Cheese: Having the eye formation characteristic of the Swiss or Emmenthaler type. Blue-mold, in original loaves (not including Roquefort cheese).
763	Grass seeds and other forage crop seeds: Orchard grass.
764	Other garden and field seeds: Cabbage. Cauliflower.
802	Compounds and preparations of which distilled spirits are the component material of chief value and not specially provided for.
1405	Gummed papers, not specially provided for.
1511	Cork, commonly or commercially known as artificial, composition, or compressed cork, in the rough and not further advanced than slabs, blocks, planks, rods, sticks, or similar forms.
1527 (a)	Jewelry, commonly or commercially so known, finished or unfinished (including parts thereof): (2) all other, of whatever material composed, valued above $5 per dozen pieces.
1547 (a)	Works of art: (2) Statuary, sculptures, or copies, replicas, or reproductions thereof, valued at not less than $2.50, and not specially provided for.
1558	Articles manufactured, in whole or in part, not specially provided for: Brewers' yeast, not containing alcohol.
1679	Natural flint, natural flints, and natural flint stones, unground.
1751	Rennet, raw or prepared.

DOMINICAN REPUBLIC

Tariff Act of 1930 Par.	*Item*
501	Sugars, tank bottoms, sirups of cane juice, melada, concentrated melada, concrete and concentrated molasses, and all mixtures containing sugar and water.
502	Molasses and sugar sirups, not specially provided for (except molasses and sugar sirups containing soluble nonsugar solids, excluding any foreign substance that may have been added or developed in the product, equal to more than 6 per centum of the total soluble solids).
502	Molasses not imported to be commercially used for the extraction of sugar or for human consumption.

DOMINICAN REPUBLIC—continued

Tariff Act of 1930 Par.	*Item*
710	Cheese (except cheese having the eye formation characteristic of the Swiss or Emmenthaler type; Gruyere process-cheese; Roquefort and other blue-mold cheeses, in original loaves; Romano, Pecorino, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz, and Goya cheeses, in original loaves; Cheddar cheese, not processed otherwise than by division into pieces; Bryndza cheese, in casks, barrels, or hogsheads, weighing with their contents more than 200 pounds each; and Edam and Gouda cheeses).
1670	Dyeing or tanning materials, whether crude or advanced in value or condition by shredding, grinding, chipping, crushing, or any similar process, not containing alcohol, and not specially provided for: All articles of vegetable origin used for dyeing, coloring, or staining (except Brazil wood, madder, and saffron, and not including any article specifically mentioned by name in paragraph 1670, Tariff Act of 1930).

EL SALVADOR

10	Balsams, natural and uncompounded, not containing alcohol: Peru. All other (not including copaiba, fir or Canada, tolu, and styrax).
28 (a)	Natural alizarin and natural indigo.
1654	Coffee, except coffee imported into Puerto Rico and upon which a duty is imposed under the authority of section 319.

FINLAND

234 (a)	Granite suitable for use as monumental, paving, or building stone, not specially provided for: Hewn, dressed, pointed, pitched, lined, or polished, or otherwise manufactured. Unmanufactured, or not dressed, pointed, pitched, lined, hewn, or polished.
355	Knives, forks, steels, and cleavers, of a class or kind provided for in paragraph 355, Tariff Act of 1930: With handles of hard rubber, solid bone, celluloid, or any pyroxylin, casein, or similar material (except table, carving, cake, pie, butter, fruit, cheese, and fish knives, forks, steels, and cleavers). With handles of materials other than those specifically mentioned in paragraph 355, Tariff Act of 1930, if specially designed for other than household, kitchen, or butchers' use (except hay forks and 4-tined manure forks, 4 inches in length or over, exclusive of handle): With handles of wood or wood and steel, or of nickel silver, or of steel other than austenitic. Other, if 4 inches in length or over, exclusive of handle.
405	Birch plywood.
412	Manufactures of wood or bark, or of which wood or bark is the component material of chief value, not specially provided for: Spools wholly of wood, suitable for thread (not including bobbins).
704	Reindeer meat, fresh, chilled, or frozen, not specially provided for.
710	Cheese: Having the eye formation characteristic of the Swiss or Emmenthaler type. Gruyere process-cheese.
1402	Paperboard, and pulpboard, including cardboard, not plate finished, supercalendered or friction calendered, laminated by means of an adhesive substance, coated, surface stained or dyed, lined or vat-lined, embossed, printed, decorated, or ornamented in any manner, nor cut into shapes for boxes or other articles and not specially provided for (except pulpboard in rolls for use in the manufacture of wallboard; wallboard; insulating board; fiberboard; leather board or compress leather; and strawboard).
1405	Grease-proof and imitation parchment papers which have been supercalendered and rendered transparent or partially so, by whatever name known.
1409	Wrapping paper not specially provided for (except strawboard and straw paper known as wrapping paper, less than 0.012 but not less than 0.008 inch in thickness).

FINLAND—continued

Tariff Act of 1930 Par.	Item
1516	Matches, friction or lucifer, of all descriptions, in boxes containing not more than 100 matches per box.
1536	Manufactures of wax, or of which wax is the component material of chief value, not specially provided for: Ski wax.
1716	Mechanically ground wood pulp, chemical wood pulp, unbleached or bleached.
1772	Standard newsprint paper.

GREECE

38	Extracts, dyeing and tanning, not containing alcohol: Valonia.
53	Oils, vegetable: Olive, not specially provided for.
328	Cylindrical and tubular tanks or vessels, for holding gas, liquids, or other material, whether full or empty.
601	Filler tobacco not specially provided for, if unstemmed: Cigarette leaf tobacco (except smoke-cured, having the flavor and aroma characteristics of smoke-cured Latakia leaf tobacco).
742	Currants, Zante or other.
744	Olives of a class or kind of which Greece is a major supplier.
781	Mixed spices, and spices and spice seeds not specially provided for, including all herbs or herb leaves in glass or other small packages, for culinary use: Bay leaves.
1519 (b)	Manufactures of fur (except silver or black fox), further advanced than dressing, prepared for use as material (whether or not joined or sewed together), including plates, mats, linings, strips, and crosses (except plates, mats, linings, strips, and crosses of dog, goat, kid, squirrel, hare, and lamb and sheep other than caracul and Persian lamb): Plates, mats, linings, strips, and crosses, if dyed.
1545	Sponges, not specially provided for (except hardhead or reef and not including sponges commercially known as sheepswool, yellow, grass, or velvet).
1545	Manufactures of sponges, or of which sponge is the component material of chief value, not specially provided for.
1686	Natural gums, natural gum resins, and natural resins, not specially provided for: Mastic.
1732	Oils, expressed or extracted: Olive, rendered unfit for use as food or for any but mechanical or manufacturing purposes.

HAITI

58	Essential and distilled oils, not specially provided for, not mixed or compounded with or containing alcohol: Vetivert oil.
412	Manufactures of wood or bark, or of which wood or bark is the component material of chief value, not specially provided for: Trays, bowls, platters, lamp bases, book-ends, and similar household wares, of which mahogany is the component material of chief value.
739	Orange peel, crude, dried, or in brine.
1529 (a)	Articles (except hats and other wearing apparel) wholly or in part of braids.
1530 (e)	Boots, shoes, or other footwear (including athletic or sporting boots and shoes), the uppers of which are composed wholly or in chief value of wool, cotton, ramie, animal hair, fiber, rayon or other synthetic textile, silk, or substitutes for any of the foregoing, whether or not the soles are composed of wood or other materials (except such boots, shoes, or other footwear with soles composed wholly or in chief value of leather or with soles composed wholly or in chief value of india rubber or substitutes for rubber).
1537 (a)	Manufactures of raffia-palm leaf or of which this substance is the component material of chief value, not specially provided for.
1670	Dyeing or tanning materials, whether crude or advanced in value or condition by shredding, grinding, chipping, crushing, or any similar process, not containing alcohol, and not specially provided for: Logwood.
1684	Grasses and fibers, not dressed or manufactured in any manner, and not specially provided for: Sisal.
1731	Oils, distilled or essential, not mixed or compounded with or containing alcohol: Lemon-grass.
1789	Turmeric.

ITALY

Tariff Act of 1930 Par.	Item
1	Acids and acid anhydrides: Boric acid and tartaric acid.
9	Cream of tartar.
10	Balsams, natural and uncompounded, not containing alcohol: Styrax.
17	Calomel, corrosive sublimate, and other mercurial preparations.
26	Glycerophosphoric acid, and salts and compounds of glycerophosphoric acid.
35	Aconite, aloes, asafetida, cocculus indicus, jalap, manna; marshmallow or althea root, leaves and flowers; all the foregoing which are natural and uncompounded, but which are advanced in value or condition by shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to proper packing and the prevention of decay or deterioration pending manufacture, and not containing alcohol.
53	Oils, vegetable: Olive, weighing with the immediate container less than forty pounds. Olive, not specially provided for.
58	Oils, distilled or essential, not mixed or compounded with or containing alcohol: Lemon.
67	Barytes ore, ground or otherwise manufactured.
73	Siennas, whether crude or not ground, or washed or ground.
76	Vermilion reds containing quicksilver, dry or ground in or mixed with oil or water.
80	Soap: Castile.
202 (b)	Mantels, friezes, and articles of every description or parts thereof, composed wholly or in chief value of earthen tiles or tiling, except pill tiles.
206	Pumice stone, whether unmanufactured or wholly or partly manufactured; and manufactures of pumice stone or of which pumice stone is the component material of chief value, not specially provided for.
209	Talc, steatite or soapstone, and French chalk: Ground, washed, powdered, or pulverized (except talc, steatite or soapstone valued at not more than $14 per ton, and except toilet preparations). Cut or sawed, in blanks, crayons, cubes, disks, or other forms.
211	Earthenware and crockery ware composed of a nonvitrified absorbent body not wholly of clay, including white granite and semiporcelain earthenware, and cream-colored ware, terra cotta, and stoneware, including clock cases with or without movements, pill tiles, plaques, ornaments, charms, vases, statues, statuettes, mugs, cups, steins, lamps, and all other articles composed wholly or in chief value of such ware; all of the foregoing not tableware, kitchenware, or table or kitchen utensils, if plain white, plain yellow, plain brown, plain red, or plain black, and manufactures in chief value of such ware, not specially provided for, or painted, colored, tinted, stained, enameled, gilded, printed, ornamented, or decorated in any manner, and manufactures in chief value of such ware, not specially provided for; any of the foregoing, if valued at not less than $3 per dozen.
214	Earthy or mineral substances wholly or partly manufactured and articles, wares, and materials (crude or advanced in condition), composed wholly or in chief value of earthy or mineral substances, not specially provided for, whether susceptible of decoration or not: Marble chip or granite.
217	Bottles, jars, and covered or uncovered demijohns, and carboys, any of the foregoing, wholly or in chief value of glass, if unfilled and holding not more than one pint, not specially provided for.
231	Smalts, frostings, and all ceramic and glass colors, fluxes, glazes, and enamels, all the foregoing in any form other than ground or pulverized.
232 (a)	Marble (except marble commercially known as black marble) and breccia, in block, rough or squared only, and marble (except marble commercially known as black marble) and breccia, sawed or dressed, over two inches in thickness.
232 (b)	Slabs and paving tiles of marble, breccia, or onyx: Containing not less than four superficial inches, all the foregoing whether or not rubbed in whole or in part and whether or not polished in whole or in part.
232 (c)	Mosaic cubes of marble, breccia, or onyx, not exceeding two cubic inches in size, whether loose or attached to paper or other material.

ITALY—continued

Tariff Act of 1930 Par.	Item
233	Alabaster and jet, wholly or partly manufactured into monuments, benches, vases, and other articles, and articles of which these substances or either of them is the component material of chief value.
234 (b)	Travertine stone, unmanufactured, or not dressed, hewn, or polished.
234 (c)	Freestone, sandstone, limestone, lava, and all other stone suitable for use as monumental or building stone, except marble, breccia, and onyx, not specially provided for, whether manufactured or unmanufactured, and whether or not hewn, dressed, or polished.
235	Slate, slates, slate chimney pieces, mantels, slabs for tables, and all other manufactures of slate (not including roofing slates), not specially provided for.
339	Table, household, kitchen, and hospital utensils, and hollow or flat ware, not specially provided for: Illuminating articles, plated with silver on nickel silver or copper. Plated with silver on metal other than nickel silver or copper. Composed wholly or in chief value of steel or other base metal, not plated with platinum, gold, or silver, and not specially provided for: Household food grinding or cutting utensils other than meat and food choppers.
355	Table, carving, cake, pie, butter, fruit, cheese, and fish knives, and similar forks, and steels therefor, all the foregoing with handles of nickel silver or of steel other than austenitic, if less than four inches in length, exclusive of handle, finished or unfinished, not specially provided for.
357	All scissors and other shears (except pruning and sheep shears), and blades for the same, finished or unfinished, valued at more than $1.75 per dozen.
363	Sword blades (not including swords and side arms), irrespective of quality or use, wholly or in part of metal.
382 (a)	Bronze, or Dutch metal, or aluminum, in leaf.
412	Manufactures of wood or bark, or of which wood or bark is the component material of chief value, not specially provided for (except baby carriages; badminton rackets and badminton-racket frames; tennis-racket frames; bobbins and shuttles; boxes, crates, fruit-picking trays, and similar containers, and shooks for making any such containers; broom handles and mop handles, further advanced than rough shaped, not less than ¾ inch in diameter and not less than 38 inches in length; brush backs; canoes and canoe paddles; carriages, drays, trucks, and other vehicles, and parts thereof; clasps, buckles, and buckle slides; clothespins, faucets, spigots, and stocking darners or darning lasts; forks and spoons; golf club shafts and ice-hockey sticks; skis, equipment ordinarily used in conjunction therewith, and parts of skis or of such equipment; snowshoes and toboggans; laminated wall-board; picture and mirror frames; spools wholly of wood, suitable for thread; and wheelbarrows).
505	Adonite, arabinose, dulcite, galactose, inosite, inulin, mannite, d-talose, d-tagatose, ribose, melibiose, dextrose testing above 99.7 per centum, mannose, melezitose, raffinose, rhamnose, sorbite, xylose, and other saccharides (not including levulose, salicin, and lactose).
604	Snuff and snuff flour, manufactured of tobacco, ground dry, or damp, and pickled, scented, or otherwise, of all descriptions.
709	Pork, prepared or preserved: Pork made into sausages of any kind (except fresh pork sausage).
710	Cheese, in original loaves: Romano, Pecorino, Reggiano, Parmesano, Provoloni, and Provolette.
718 (a)	Fish, prepared or preserved in any manner, when packed in oil or in oil and other substances: Anchovies and antipasto, valued at over 9 cents per pound, including the weight of the immediate container.
725	Macaroni, vermicelli, noodles, and similar alimentary pastes, whether or not containing eggs or egg products.
737	Cherries: (3) sulphured, or in brine, with pits, or with pits removed.
739	Orange and lemon peel, crude, dried, or in brine, or candied, crystallized, or glace, or otherwise prepared or preserved.
739	Citrons or citron peel, candied, crystallized, or glace, or otherwise prepared or preserved.

ITALY—continued

Tariff Act of 1930 Par.	Item
740	Figs, prepared or preserved, not specially provided for.
743	Lemons.
761	Edible nuts, not specially provided for: Pignolia, not shelled, or shelled.
764	Other garden and field seeds: Pepper.
767	Lupines.
770	Red onions (except onion sets).
772	Tomatoes, prepared or preserved in any manner.
775	Vegetables (including horseradish), if pickled, or packed in salt or brine (except cucumbers and onions).
775	Pastes, balls, puddings, hash (except corned beef hash) and all similar forms, composed of vegetables, or of vegetables and meat or fish, or both, not specially provided for.
804	Vermouth.
908	Tapestries and other Jacquard-figured upholstery cloths (not including pile fabrics or bed ticking) in the piece or otherwise, wholly or in chief value of cotton or other vegetable fiber.
911 (a)	Quilts or bedspreads, whether or not Jacquard-figured (except quilts or bedspreads not Jacquard-figured but block-printed by hand), and blankets, not Jacquard-figured, all the foregoing wholly or in chief value of cotton, whether in the piece or otherwise.
1001	Hemp and hemp tow, and hackled hemp.
1004 (a)	Single yarns, of hemp or ramie, or a mixture of them.
1005 (a)	Cordage, including cables, tarred or untarred, composed of three or more strands, each strand composed of two or more yarns: (3) wholly or in chief value of hemp.
1009 (a)	Woven fabrics, not including articles finished or unfinished, of hemp or ramie, or of which these substances or either of them is the component material of chief value (except such as are commonly used as paddings or interlinings in clothing), exceeding thirty and not exceeding one hundred threads to the square inch, counting the warp and filling, weighing not less than four and not more than twelve ounces per square yard, and exceeding twelve inches but not exceeding thirty-six inches in width.
1014	Towels, finished or unfinished, wholly or in chief value of hemp or ramie, or of which these substances or either of them is the component material of chief value, not exceeding 120 threads to the square inch, counting the warp and filling.
1115 (b)	Bodies, hoods, forms, and shapes, for hats, bonnets, caps, berets, and similar articles, wholly or in chief value of wool but not knit or crocheted nor made in chief value of knit, crocheted, or woven material; all the foregoing, if not pulled, stamped, blocked, or trimmed, and not including finished hats, bonnets, caps, berets, and similar articles.
1205	Woven fabrics in the piece, not exceeding 30 inches in width, whether woven with fast or split edges, wholly or in chief value of silk, including umbrella silk or Gloria cloth, all the foregoing, if Jacquard-figured, but not bleached, printed, dyed, or colored.
1301	Filaments of rayon or other synthetic textile, grouped, not specially provided for.
1403	Manufactures of papier-mache, not specially provided for (not including masks).
1405	Cloth-lined or reinforced paper.
1406	Labels, flaps, and bands, composed wholly or in chief value of paper lithographically printed in whole or in part from stone, gelatin, metal, or other material, but not printed in whole or in part in metal leaf and not specially provided for, all the foregoing, if not exceeding ten square inches cutting size in dimensions, embossed or die-cut, and if printed in less than eight colors.
1407 (a)	Drawing and similar paper, weighing eight pounds or over per ream and valued at less than 40 cents per pound, not ruled, bordered, embossed, printed, lined, or decorated in any manner.
1410	Book covers wholly or in part of leather, not specially provided for.
1410	All post cards (not including American views), plain, decorated, embossed, or printed except by lithographic process.

ITALY—continued

Tariff Act of 1930 Par.	Item
1504 (a)	Braids, plaits, and laces, composed wholly or in chief value of straw, chip, paper, grass, willow, osier, rattan, real horsehair, cuba bark, or manila hemp, and braids and plaits, wholly or in chief value of ramie, all the foregoing suitable for making or ornamenting hats, bonnets, or hoods: Bleached, dyed, colored, or stained, and not containing a substantial part of rayon or other synthetic textile.
1518	Natural grasses, grains, leaves, plants, shrubs, herbs, trees, and parts thereof, not specially provided for, when bleached; and boas, boutonnieres, wreaths, and all articles not specially provided for, composed wholly or in chief value of any of the foregoing.
1518	Boas, boutonnieres, wreaths, and all articles not specially provided for, composed wholly or in chief value of colored, dyed, painted, or chemically treated natural grasses, grains, leaves, plants, shrubs, herbs, trees, and parts thereof, not specially provided for.
1523	Human hair, cleaned or commercially known as drawn, but not manufactured.
1530 (e)	Boots, shoes, or other footwear (including athletic or sporting boots and shoes), made wholly or in chief value of leather, not specially provided for: Turn or turned, for women and misses (except slippers for housewear and moccasins of the Indian handicraft type, having no line of demarcation between the soles and the uppers).
1538	Manufactures of mother-of-pearl or shell, or of which these substances or either of them is the component material of chief value, not specially provided for; and shells and pieces of shells engraved, cut, ornamented, or otherwise manufactured.
1541 (a)	Musical instruments and parts thereof, not specially provided for: Cymbals and parts thereof; piano accordions; and parts of accordions (except parts, other than reeds, specially designed for concertinas and other accordions having not more than 32 treble buttons and not more than 25 bass buttons).
1547 (a)	Works of art: (2) Statuary, sculptures, or copies, replicas, or reproductions thereof, valued at not less than $2.50, and not specially provided for.
1552	All smokers' articles whatsoever, and parts thereof, finished or unfinished, not specially provided for, of whatever material composed, except china, porcelain, parian, bisque, earthenware, or stoneware: Cigar and cigarette boxes, wholly or in chief value of wood and valued at 50 cents or more each.
1554	Umbrellas, parasols, and sunshades, covered with material other than paper or lace, not embroidered or appliqued.
1554	Handles and sticks for umbrellas, parasols, sunshades, and walking canes, if composed wholly or in chief value of materials other than synthetic resin or compounds of cellulose.
1602	Aconite, cocculus indicus, manna; marshmallow or althea root, leaves and flowers; all the foregoing which are natural and uncompounded and are in a crude state, not advanced in value or condition by shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to proper packing and the prevention of decay or deterioration pending manufacture, not containing alcohol.
1630	Books, pamphlets, and music, in raised print, used exclusively by or for the blind.
1646	Chestnuts (including marrons), not further advanced than crude, dried, or baked.
1649	Citrons and citron peel, in brine.
1670	Dyeing or tanning materials: Sumac, whether crude or advanced in value or condition by shredding, grinding, chipping, crushing, or any similar process, not containing alcohol, and not specially provided for.
1722	Vegetable substances, crude or unmanufactured, not specially provided for: Orris root, lavender flowers, and sloe and juniper berries.
1728	Belladonna.
1731	Oils, distilled or essential, not mixed or compounded with or containing alcohol: Bergamot.
1751	Rennet, raw or prepared.

ITALY—continued

Tariff Act of 1930 Par.	Item
1774	Altars, pulpits, communion tables, baptismal fonts, shrines, or parts of any of the foregoing, and statuary (except casts of plaster of Paris, or of compositions of paper or papier-mache), imported in good faith for presentation (without charge) to, and for the use of, any corporation or association organized and operated exclusively for religious purposes.
1788	Truffles, fresh, or dried or otherwise prepared or preserved.
1810	Works of art, including pictorial paintings on glass, imported expressly for presentation to a national institution or to any State or municipal corporation or incorporated religious society, college, or other public institution, not including stained or painted window glass or stained or painted glass windows which are works of art when imported to be used in houses of worship, valued at $15 or more per square foot, and excluding any article, in whole or in part, molded, cast, or mechanically wrought from metal within twenty years prior to importation.
1812	Gobelin tapestries used as wall hangings.

NICARAGUA

10	Balsams, natural and uncompounded, not containing alcohol: Peru. All other (not including copaiba, fir or Canada, tolu, and styrax).
1602	Ipecac, natural and uncompounded and in a crude state, not advanced in value or condition by shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to proper packing and the prevention of decay or deterioration pending manufacture, and not containing alcohol.
1670	Dyeing or tanning materials, whether crude or advanced in value or condition by shredding, grinding, chipping, crushing, or any similar process, not containing alcohol, and not specially provided for: Fustic wood and Brazil wood.
1803	Wood: (2) Logs: Spanish cedar.
1804	Railroad ties, hewn, not sawed on any side.

PERU

35	Pyrethrum or insect flowers, and derris root, tube or tuba root, and barbasco or cube root, all the foregoing which are natural and uncompounded, but advanced in value or condition by shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to proper packing and the prevention of decay or deterioration pending manufacture, not containing alcohol.
36	Coca leaves.
377	Bismuth.
501	Sugars, tank bottoms, sirups of cane juice, melada, concentrated melada, concrete and concentrated molasses, and all mixtures containing sugar and water.
718 (a)	Fish, prepared or preserved in any manner, when packed in oil or in oil and other substances: Tuna. Bonito and yellowtail.
783	Cotton having a staple of one and one-eighth inches or more in length.
1102 (b)	Hair of the alpaca, llama, and vicuna, in the grease, or washed, scoured, on the skin, and sorted, or matchings, if not scoured.
1116 (a)	Oriental, Axminster, Savonnerie, Aubusson, and other carpets, rugs, and mats, not made on a power-driven loom, plain or figured, whether woven as separate carpets, rugs, or mats, or in rolls of any width, all the foregoing, if wholly or in chief value of hair of the alpaca, llama, guanaco, huarizo, suri, misti, or a combination of the hair of two or more of these species.
1609	Cochineal, and extracts thereof, not containing alcohol.
1670	Dyeing or tanning materials, whether crude or advanced in value or condition by shredding, grinding, chipping, crushing, or any similar process, not containing alcohol, and not specially provided for: Tara.

PERU—continued

Tariff Act of 1930 Par.	Item
1685	Guano.
1686	Natural gums, natural gum resins, and natural resins, not specially provided for: Leche caspi.
1719	Minerals, crude, or not advanced in value or condition by refining or grinding, or by other process of manufacture, not specially provided for: Vanadium ore or concentrates.
1722	Vegetable substances, crude or unmanufactured, not specially provided for: Barbasco or cube root.
1765	Skins of all kinds, raw, and hides not specially provided for: Goat and kid skins.

SWEDEN

32	Compounds of cellulose, known as vulcanized or hard fiber, made wholly or in chief value of cellulose.
78	Potassium hydroxide or caustic potash.
81	Sodium hydroxide or caustic soda.
218 (f)	Table and kitchen articles and utensils, and all articles of every description not specially provided for, composed wholly or in chief value of glass, blown or partly blown in the mold or otherwise, or colored, cut, engraved, etched, frosted, gilded, ground (except such grinding as is necessary for fitting stoppers or for purposes other than ornamentation), painted, printed in any manner, sand-blasted, silver, stained, or decorated or ornamented in any manner, whether filled or unfilled, or whether their contents be dutiable or free: Articles primarily designed for ornamental purposes, decorated chiefly by engraving and valued at not less than $8 each.
226	Lighthouse lenses of glass or pebble, molded or pressed, or ground and polished to a spherical, cylindrical, or prismatic form, wholly or partly manufactured, with edges unground or with edges ground or beveled.
234 (a)	Granite suitable for use as monumental, paving, or building stone, not specially provided for, unmanufactured, or not dressed, pointed, pitched, lined, hewn, or polished.
301	Granular or sponge iron, whether or not containing vanadium, tungsten, molybdenum, or chromium.
302 (k)	Ferrochrome or ferrochromium containing less than 3 per centum of carbon.
303	Muck bars, pieces thereof except crop ends, bar iron, and round iron in coils or rods, iron in slabs, blooms, loops, or other forms less finished than iron in bars and more advanced than pig iron, except castings; all the foregoing, valued above 2½ cents per pound.
304	Steel ingots, cogged ingots, blooms and slabs, by whatever process made; die blocks or blanks; billets and bars, whether solid or hollow; shafting; pressed, sheared, or stamped shapes, not advanced in value or condition by any process or operation subsequent to the process of stamping; hammer molds or swaged steel; gun-barrel molds not in bars; concrete reinforcement bars; all descriptions and shapes of dry sand, loam, or iron molded steel castings; sheets and plates and steel not specially provided for: Hollow bars and hollow drill steel, valued above 5 and not above 8 cents per pound and above 12 and not above 16 cents per pound. Steel circular saw plates, regardless of value. Other, valued above 5 and not above 16 cents per pound.
315	Wire rods: Rivet, screw, fence, and other iron or steel wire rods, whether round, oval, or square, or in any other shape, nail rods and flat rods up to six inches in width ready to be drawn or rolled into wire or strips, all the foregoing in coils or otherwise, valued at over 2½ cents per pound.
315	All iron or steel wire rods, which have been tempered or treated in any manner or partly manufactured.
315	All iron or steel bars and rods of whatever shape or section which are cold rolled, cold drawn, cold hammered, or polished in any way in addition to the ordinary process of hot rolling or hammering.

SWEDEN—continued

Tariff Act of 1930 Par.	Item
315	All strips, plates, or sheets of iron or steel of whatever shape, other than polished, planished, or glanced sheet iron or sheet steel, which are cold hammered, blued, brightened, tempered, or polished by any process to such perfected surface finish or polish better than the grade of cold rolled, smoothed only.
316 (a)	Round iron or steel wire, valued above 6 cents per pound.
316 (a)	All flat wires and all steel in strips not thicker than one-quarter of one inch and not exceeding sixteen inches in width, whether in long or short lengths, in coils or otherwise, and whether rolled or drawn through dies or rolls, or otherwise produced.
316 (a)	All wire of iron, steel, or other metal (except round iron or steel wire valued not above 6 cents per pound) coated by dipping, galvanizing, sherardizing, electrolytic, or any other process with zinc, tin, or other metal.
318	Fourdrinier wires and cylinder wires, suitable for use in paper-making machines (whether or not parts of or fitted or attached to such machines), and woven-wire cloth suitable for use in the manufacture of Fourdrinier wires or cylinder wires.
319 (a)	Forgings of iron or steel, or of combined iron and steel, not machined, tooled, or otherwise advanced in condition by any process or operation subsequent to the forging process, not specially provided for.
321	Antifriction balls and rollers, metal balls and rollers commonly used in ball or roller bearings, metal ball or roller bearings, and parts thereof, whether finished or unfinished, for whatever use intended.
325	Anvils of iron or steel, or of iron and steel combined, by whatever process made, or in whatever stage of manufacture, weighing 5 pounds or more each.
328	Finished or unfinished iron or steel tubes not specially provided for (not including lap-welded, butt-welded, seamed, or jointed iron or steel tubes, tubes made from plate metal, whether corrugated, ribbed, or otherwise reinforced against collapsing pressure, flexible metal tubing, and rigid iron or steel tubes prepared and lined or coated in any manner suitable for use as conduits for electrical conductors).
339	Table, household, kitchen, and hospital utensils, and hollow or flat ware, not specially provided for, composed of iron or steel and enameled or glazed with vitreous glasses: Sanitary articles; and other than sanitary articles if containing electrical heating elements as constituent parts thereof.
340	Crosscut saws, mill saws, pit and drag saws, steel band saws, finished or further advanced than tempered and polished, hand, back, and all other saws, not specially provided for (not including circular saws).
354	Penknives and pocketknives which have folding blades and steel handles ornamented or decorated with etchings or gilded designs, or both, and valued at more than $6 per dozen.
356	Roll bars, bed plates, and all other stock-treating parts for pulp and paper machinery (not including paper and pulp mill knives).
359	Surgical instruments, and parts thereof, including hypodermic syringes and forceps, composed wholly or in part of iron, steel, copper, brass, nickel, aluminum, or other metal, finished or unfinished (except surgical needles, including hypodermic needles, and except instruments and parts in chief value of glass).
361	Slip joint pliers; and other pliers, pincers, and nippers, and hinged hand tools for holding and splicing wire, finished or unfinished; all the foregoing, valued at more than $2 per dozen.
362	Files, file blanks, rasps, and floats, of whatever cut or kind, seven inches in length and over.
372	Centrifugal machines for the separation of liquids or liquids and solids, not specially provided for (not including cream separators), and parts thereof wholly or in chief value of metal or porcelain, not specially provided for.

SWEDEN—continued

Tariff Act of 1930 Par.	*Item*
372	All other machines, finished or unfinished, not specially provided for, and parts thereof wholly or in chief value of metal or porcelain, not specially provided for: Wrapping and packaging machines, and parts thereof (except machines for packaging pipe tobacco, and parts thereof; machines for wrapping cigarette packages, and parts thereof; machines for wrapping candy, and parts thereof; and except combination candy cutting and wrapping machines, and parts thereof). Machines for manufacturing chocolate or confectionery, and parts thereof. Food grinding or cutting machines, and parts thereof. Machines for making paper pulp or paper, and parts thereof.
373	Scythes, sickles, grass hooks, and corn knives, and parts thereof, composed wholly or in chief value of metal, whether partly or wholly manufactured.
396	Drills (including breast drills), bits, gimlets, gimlet-bits, countersinks, planes, chisels, gouges, and other cutting tools; all the foregoing, if hand tools not provided for in paragraph 352, Tariff Act of 1930, and parts thereof, wholly or in chief value of metal, not specially provided for.
397	Articles or wares not specially provided for, not plated with platinum, gold, or silver, or colored with gold lacquer, whether partly or wholly manufactured: Portable cooking and heating stoves, designed to be operated by compressed air and kerosene and/or gasoline, and parts thereof not specially provided for, if composed wholly or in chief value of iron, steel, or other base metal.
405	Plywood (except birch plywood and plywood with face ply of Western red-cedar (*thuja plicata*).)
407	Sugar-box shooks, and packing boxes (empty), and packing-box shooks, of wood, not specially provided for.
412	Spring clothespins.
412	Manufactures of wood or bark, or of which wood or bark is the component material of chief value, not specially provided for: Clothespins (not including spring clothespins).
763	Grass seeds and other forage crop seeds: Tall oat.
1402	Wallboard, including insulating board, and fiberboard, not plate finished, supercalendered or friction calendered, laminated by means of an adhesive substance, coated, surface stained or dyed, lined or vat-lined, embossed, printed, decorated or ornamented in any manner, nor cut into shapes for boxes or other articles and not specially provided for.
1405	Grease-proof and imitation parchment paper, not specially provided for, by whatever name known (other than grease-proof and imitation parchment papers which have been supercalendered and rendered transparent or partially so, by whatever name known).
1409	Sulphate and sulphite wrapping paper not specially provided for.
1516	Matches, friction or lucifer, of all descriptions.
1604	Agricultural implements: Cream separators valued at not more than $50 each, whether in whole or in parts, including repair parts.
1623	Hard crisp bread made from rye flour and not more than 5 per centum of wheat flour, if any, with yeast as the leavening substance.
1700	Iron ore, including manganiferous iron ore.
1716	Chemical wood pulp, unbleached (except screenings and soda pulp).

URUGUAY

705	Extract of meat, including fluid.
706	Meats, prepared or preserved, not specially provided for (except meat pastes other than liver pastes, packed in air-tight containers weighing with their contents not more than 3 ounces each).
1530 (a)	Hides and skins of cattle of the bovine species (except hides and skins of the India water buffalo imported to be used in the manufacture of rawhide articles), raw or uncured, or dried, salted, or pickled.
1603	Agates, unmanufactured.
1625	Blood, dried, not specially provided for.
1627	Bones: Crude, steamed, or ground; bone dust, bone meal, and bone ash; and animal carbon suitable only for fertilizing purposes.
1780	Tankage, unfit for human consumption.

[F. R. Doc. 48-9749; Filed, Nov. 5, 1948; 11:55 a. m.]

COMMITTEE FOR RECIPROCITY INFORMATION

TRADE-AGREEMENT NEGOTIATIONS WITH DENMARK, DOMINION REPUBLIC, EL SALVADOR, FINLAND, GREECE, HAITI, ITALY, NICARAGUA, PERU, SWEDEN, AND URUGUAY; POSSIBLE ADJUSTMENTS IN PREFERENTIAL RATES ON CUBAN PRODUCTS

SUBMISSION OF INFORMATION TO THE COMMITTEE FOR RECIPROCITY INFORMATION

Closing date for application to be heard, November 29, 1948.

Public hearings open, December 7, 1948.

Closing date for submission of briefs, December 7, 1948.

The Interdepartmental Committee on Trade Agreements has issued on this day a notice [1] of intention to conduct trade-agreement negotiations with each of the following countries: Denmark, Dominican Republic, El Salvador, Finland, Greece, Haiti, Italy, Nicaragua, Peru, Sweden, and Uruguay. Annexed to this public notice are lists of articles imported into the United States to be considered for possible concessions in the negotiations with each of the above countries.

It is stated by the Trade Agreements Committee that it is proposed to enter into these negotiations with a view to the accession of the countries named above as contracting parties to the General Agreement on Tariffs and Trade. The Trade Agreements Committee has also announced in such notice that, in the case of an article in one or more of these lists with respect to which the corresponding product of Cuba is now entitled to preferential treatment, a modification of the rate in the negotiations referred to will involve the elimination, reduction, or continuation of the preference, perhaps in some cases with an adjustment or specification of the rate applicable to the product of Cuba.

The Committee for Reciprocity Information hereby gives notice that information and views in writing in regard to the foregoing proposals with respect to any of the named countries (including areas for which any of these countries has authority to conduct trade-agreement negotiations) shall be submitted to the Committee for Reciprocity Information not later than 12:00 noon, December 7, 1948, and all applications for oral presentation of views in regard thereto, including a statement as to the import product or products, if any, on which the applicant wishes to be heard, shall be submitted to the Committee for Reciprocity Information not later than 12:00 noon, November 29, 1948.

Such communications shall be addressed to "The Chairman, Committee for Reciprocity Information, Department of Commerce, Washington 25, D. C.". Ten copies of written statements, either typewritten or printed, shall be submitted, of which one copy shall be sworn to.

Public hearings will be held before the Committee for Reciprocity Information, at which oral statements will be heard. The first hearing will be at 10:00 a. m. on December 7, 1948, in the auditorium of Department of Commerce Building at 14th and E Streets, N. W., Washington, D. C. Witnesses who make application to be heard will be advised regarding the time and place of their individual appearances. Appearances at hearings before the Committee may be made by or on behalf of those persons who have within the time prescribed made written application for oral presentation of views. Statements made at the public hearings shall be under oath.

Persons or groups interested in import products may present to the Committee their views concerning possible tariff concessions by the United States on any product, whether or not included in any of the lists annexed to the notice of intention to negotiate which has been issued by the Trade Agreements Committee, and concerning any other matters relating to the proposed negotiations. Copies of these lists may be obtained from the Committee for Reciprocity Information at the address designated above and may be inspected at the field offices of the Department of Commerce.

[1] See F. R. Doc. 48-9749, Interdepartmental Committee on Trade Agreements, *supra*.

As indicated in the notice of intention to negotiate, no tariff concession will be considered on any product which is not included in a list annexed thereto unless it is subsequently included in a supplementary public list.

Persons or groups interested in export products may present their views regarding any tariff or other concessions that might be requested of any of the foreign governments with which it is proposed to undertake trade-agreement negotiations.

A written statement submitted to the Committee for Reciprocity Information may relate to articles contained in one or more of such lists or to other matters relating to the proposed trade-agreement negotiations with one or more of the countries listed above, and oral statements may also relate to one or more such lists or negotiations, subject to any scheduling that may be made by the Committee in advising as to the time and place of individual appearances.

By direction of the Committee for Reciprocity Information this 5th day of November 1948.

EDWARD YARDLEY,
Secretary.

NOVEMBER 5, 1948.

[F. R. Doc. 48-9748; Filed, Nov. 5, 1948; 11:55 a. m.]

UNITED STATES TARRIF COMMISSION

[Investigation No. 1 Under Section 3 of the Trade Agreements Extension Act of 1948]

FOREIGN TRADE AGREEMENTS

PUBLIC NOTICE OF INVESTIGATION AND PUBLIC HEARING

Final date for filing request to testify: November 29, 1948. Date of start of hearing: December 7, 1948.

The United States Tariff Commission on this 5th day of November, 1948, under and by virtue of section 3 of the Trade Agreements Extension Act of 1948 and pursuant to the Commission's rules of practice and procedure, hereby announces an investigation, including a public hearing, with respect to each import article included in the list of articles received by the Commission from the President on November 5, 1948, in connection with proposed negotiations for trade agreements with

Denmark.	Italy.
Dominican Republic.	Nicaragua.
El Salvador.	Peru.
Finland.	Sweden.
Greece.	Uruguay.
Haiti.	

for the purpose of determining for each said import article (a) the limit to which modification of duties and other import restrictions or imposition of additional import restrictions, or continuance of existing customs or excise treatment may be extended in order to carry out the purpose of the Trade Agreements Act of 1934, as amended, without causing or threatening serious injury to the domestic industry producing like or similar articles; and (b) the minimum increases in duties or additional import restrictions required in cases where increases in duties or additional import restrictions are required to avoid serious injury to the domestic industry producing like or similar articles.

The purpose of the investigation and hearing is to assist the Tariff Commission in the preparation of its report to the President on the question of what concessions may be made in the proposed trade agreements without causing or threatening serious injury to domestic industry. Since the statute specifically imposes on the Tariff Commission the obligation of holding its own hearing, persons who wish to be assured that their information will be considered by the Tariff Commission must present it directly to the Commission either at the hearing or in writing before the close of the hearing, in accordance with § 206.4 of the Commission's rules.

List of articles. A copy of the list of articles to be considered in this investigation may be obtained from the United States Tariff Commission, Washington 25, D. C. or from the Commission's office in Room 437, Custom House, New York 4, N. Y. The list is being published in the FEREDAL REGISTER [1] and is also available for reference in the field offices of the Department of Commerce. The investigation will be limited to articles included in the published list.

Hearing. All parties interested will be given opportunity to be present to produce evidence, and to be heard at a public hearing to commence at the office of the Commission in Washington, D. C., at 10 a. m. on the 7th day of December 1948.

Request to testify. For the convenience of parties interested and the orderly presentation of evidence it will be necessary to schedule hearings on the various articles at different times. Accordingly, parties desiring to testify must file a request to that effect and indicate the articles on which they desire to be heard on or before November 29, 1948. The Commission will then notify the parties of the date for presentation of their evidence.

Written statements. Persons unable to attend the public hearings may file written statements of relevant information at any time before the close of the hearings. These statements must be under oath and will be considered the same as oral testimony and, except for confidential data, will be open for inspection.

Rules. Copies of the Commission's rules of procedure are available upon request from the United States Tariff Commission, Washington 25, D. C.

By order of the United States Tariff Commission this 5th day of November 1948.

SIDNEY MORGAN,
Secretary.

[F. R. Doc. 48-9747; Filed, Nov. 5, 1948; 11:55 a. m.]

[1] See F. R. Doc. 48-9749, Interdepartment Committee on Trade Agreements, *supra*.

CIVIL AERONAUTICS BOARD

[Docket Nos. 1932, 1890]

NORTHEAST AIRLINES, INC.

NOTICE OF HEARING

In the matter of the compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, over its entire system.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 406 and 1001 of said act, that a hearing in the above-entitled proceeding is assigned to be held on November 8, 1948, at 10:00 a. m. (e. s. t.), in room 1011, Temporary Building No. 5, south of Constitution Avenue between 16th and 17th Streets, N. W., Washington, D. C., before Examiner R. Vernon Radcliffe.

Dated at Washington, D. C., November 2, 1948.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 48-9732; Filed, Nov. 5, 1948, 8:46 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 9157]

NORTHEASTERN INDIANA BROADCASTING CO., INC. (WKJG)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUE

In re application of Northeastern Indiana Broadcasting Company, Inc. (WKJG), Fort Wayne, Indiana, Docket No. 9157, File No. BMP-3332; for modification of construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 27th day of October 1948;

The Commission having under consideration a petition (styled Petition for Reconsideration of Grant of Construction Permit) filed February 4, 1948, by the Fort Industry Company, licensee of Station WSPD, operating on 1370 kilocycles in Toledo, Ohio, requesting that the Commission reconsider and set aside its action of January 16, 1948, granting without hearing the above-entitled application of Northeastern Indiana Broadcasting Company, Inc. to modify its construction permit (File No. BP-4063) so as to operate Station WKJG at Fort Wayne, Indiana, daytime with a directional pattern other than the one specified in said original construction permit, and the Commission also having under consideration an answer to said petition filed by Northeastern Indiana Broadcasting Company, Inc. (WKJG);

It appearing, that on December 5, 1946, the Commission granted an application of Northeastern Indiana Broadcasting Company, Inc. to construct a new standard broadcast station (WKJG) at Fort Wayne, Indiana, to operate on 1380 kilocycles with 5 kilowatt power, unlimited

time using a directional antenna day and night (File No. BP-4063), that the Fort Industry Company (WSPD) had requested reconsideration of said grant because of interference to its normally protected contour but that the request for reconsideration was subsequently withdrawn; and

It further appearing, that upon completion of the construction of Station WKJG and the making of the required proof of performance it was found that the actual antenna efficiency was higher than had been calculated and that thereupon the above-entitled application for modification of construction permit requesting authorization to operate with a higher antenna efficiency was filed; and

It further appearing, that upon the basis of measurements submitted by the Fort Industry Company (WSPD) in connection with its aforesaid petition for reconsideration filed February 4, 1948, and of proofs of performance filed in July and August, 1948, for Stations WSPD and WKJG respectively, questions of fact are presented upon which the petitioner should be afforded an opportunity to be heard;

It is ordered, That pursuant to section 405 of the Communications Act of 1934, as amended, the aforesaid petition of the Fort Industry Company (WSPD) be, and it is hereby, designated for hearing at 10 a. m. on December 2, 1948 at Washington, D. C., upon the following issue:

To determine whether the operation of the proposed station at Fort Wayne, Indiana (WKJG) under the original construction permit would involve objectionable interference with Station WSPD, Toledo, Ohio, and whether the operation of Station WKJG under the modification application would involve an increase of interference, if any, with Station WSPD, Toledo, Ohio, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

It is further ordered, That the Fort Industry Company, licensee of Station WSPD in Toledo, Ohio, and Northeastern Indiana Broadcasting Company, Inc., licensee of Station WKJG, Fort Wayne, Indiana, be, and they are hereby, made parties to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-9744; Filed, Nov. 5, 1948; 9:00 a. m.]

[Designation 27]

DESIGNATION OF MOTIONS COMMISSIONER FOR NOVEMBER 1948

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 27th day of October 1948;

It is ordered, Pursuant to § 1.111 of the Commission's rules and regulations, that Rosel H. Hyde, Commissioner, be and he is hereby, designated as Motions Commissioner for the month of November 1948.

It is further ordered, That in the event said Motions Commissioner is unable to act during any part of said period the Chairman or Acting Chairman will designate a substitute Motions Commissioner.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-9746; Filed, Nov. 5, 1948; 9:00 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1131]

NORTHERN NATURAL GAS CO.

ORDER FIXING DATE OF HEARING

NOVEMBER 2, 1948.

Upon consideration of the application filed September 24, 1948, by Northern Natural Gas Company (Applicant), a Delaware Corporation having its principal office at Omaha, Nebraska, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural gas facilities, subject to the jurisdiction of the Commission, as fully described in such application on file with the Commission, and open to public inspection;

It appears to the Commission that: Applicant has requested that its application be heard under the shortened procedure provided by § 1.32 (b) of the Commission's rules of practice and procedure for noncontested proceedings, and that this proceeding is a proper one for disposition under the provisions of the aforesaid rule, provided no request to be heard, protest or petition raising an issue of substance is filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on October 7, 1948 (13 F. R. 5872).

The Commission, therefore, orders that:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the National Gas Act, as amended, and the Commission's rules of practice and procedure, a hearing be held on November 23, 1948, at 9:30 a. m. (e. s. t.), in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided however*, That the Commission may after a non-contested hearing, forthwith dispose of the proceeding pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the said rules of practice and procedure.

Date of issuance: November 2, 1948.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 48-9729; Filed, Nov. 5, 1948; 8:46 a. m.]

[Docket No. G-1134]

LONE STAR GAS CO.

ORDER FIXING DATE OF HEARING

NOVEMBER 2, 1948.

Upon consideration of the application filed October 1, 1948, by Lone Star Gas Company (Applicant), a Texas corporation having its principal place of business at Dallas, Texas, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural gas facilities, subject to the jurisdiction of the Commission, as fully described in such application on file with the Commission and open to public inspection;

It appears to the Commission that: This proceeding is a proper one for disposition under the provisions of § 1.32 (b) of the Commission's rules of practice and procedure, Applicant having requested that its application be heard under the shortened procedure provided for by the aforesaid rule for non-contested proceedings, and no request to be heard, protest or petition having been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on October 14, 1948 (13 F. R. 6032).

The Commission, therefore, orders that:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, a hearing will be held on November 16, 1948, at 9:30 a. m., e. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue, N. W., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided however*, That the Commission may, after a non-contested hearing, forthwith dispose of the proceeding pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(B) Interested State commissions may participte as provided by §§ 1.8 and 1.37 (f) of the said rules of practice and procedure.

Date of issuance: November 2, 1948.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 48-9728; Filed, Nov. 5, 1948; 8:46 a. m.]

[Docket No. G-1145]

NATURAL GAS PIPELINE CO. OF AMERICA

NOTICE OF APPLICATION

NOVEMBER 1, 1948.

Notice is hereby given that on October 19, 1948, Natural Gas Pipeline Company of America (Applicant), a Delaware corporation, with its principal place of business at Chicago, Illinois, filed an application with the Federal Power Commission for a certificate of public convenience

and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing (1) the continued operation of certain facilities in the State of Illinois, and (2) the continued transportation, delivery, and sale of natural gas to Illinois Northern Utilities Company for resale in DeKalb and Sycamore, Illinois, to Central Illinois Electric and Gas Company for resale in the City of Rockford, Illinois, and to Illinois Power Company for resale in LaSalle, Peru, Spring Valley, Oglesby, Jonesville and environs, in Illinois, subject to the jurisdiction of the Commission.

Applicant states it has been operating facilities temporarily authorized "In the Matters of Natural Gas Pipeline Company of America" and "Texoma Natural Gas Company," Docket Nos. G–235–B, 235–C, and 235–D, by Commission orders issued on March 21, 1942, April 17, 1942 and June 23, 1942, respectively, transporting, selling and delivering to Illinois Northern Utilities Company, Central Illinois Electric and Gas Company and Illinois Power Company (formerly Illinois Iowa Power Company), the natural gas requirements of their distribution systems; that it proposes and desires to continue the operation of the said facilities and the transportation, delivery and sale of natural gas to said Companies in accordance with applicable rate schedules on file with the Commission; and that natural gas reserves therefor are adequate.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of § 1.37 of the Commission's rules of practice and procedure and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creating of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Natural Gas Pipeline Company of America is on file with the Commission and is open to public inspection. Any person desiring to be heard or to protest with reference to the application shall file with the Federal Power Commission, Washington, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of §§ 1.8 and 1.10, whichever is applicable, of the rules of practice and procedure.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 48–9731; Filed, Nov. 5, 1948; 8:46 a. m.]

[Docket No. E–6136]

FLORIDA PUBLIC UTILITIES CO.

ORDER SETTING DATES ON MATTERS SUBMITTED FOR REHEARING

NOVEMBER 2, 1948.

Upon consideration of the motion filed October 18, 1948, by Florida Public Utilities Company, following the Commission's order of June 16, 1948, which granted a rehearing to be held at a time subsequently to be fixed, by which motion the Company submitted its objections to the orders of April 26 and May 12, 1948, in the above-entitled proceeding for final decision by the Commission on the stipulation heretofore filed October 18, 1948, waived any right to intermediate decision procedure, waived any right to present proposed findings and conclusions, and requested an opportunity to file briefs and make oral argument before the Commission;

The Commission orders that:

(A) The above-mentioned motion of Florida Public Utilities Company be and the same is hereby granted.

(B) Simultaneous briefs be filed on or before December 10, 1948, and oral argument be had before the Commission on December 17, 1948, at 10:00 a. m. (e. s. t.) in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

Date of issuance: November 2, 1948.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 48–9730; Filed, Nov. 5, 1948; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[Sec. 5a, Application No. 1]

KANE TRANSFER CO.

AGREEMENT RELATING TO HOUSEHOLD GOODS CARRIERS' BUREAU

NOVEMBER 2, 1948.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of section 5a of the Interstate Commerce Act.

Filed by: Kane Transfer Company, 2116 5th Street NE., Washington 2, D. C.

Agreement involved. Application for approval of an agreement between and among motor common carriers members of Household Goods Carriers' Bureau, relating to procedures for the joint consideration, initiation or establishment of rates, rules, regulations and practices applicable to the transportation of household goods in interstate or foreign commerce within the limits of the United States.

The complete application may be inspected at the office of the Commission in Washington, D. C.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 20 days from the date of this notice. As provided by the general rules of practice of the Commission, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 48–9735; Filed, Nov. 5, 1948; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7–1060]

INTERSTATE POWER CO.

ORDER DETERMINING VALUE OF STOCK

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 2d day of November A. D. 1948.

The New York Curb Exchange has made application under Rule X-12F–2 (b) for a determination that the Debenture Escrow Certificates issued under an escrow agreement between Interstate Power Company and Chemical Bank & Trust Company dated March 31, 1948 are substantially equivalent to the 6% Gold Debentures, due January 1, 1952, of Interstate Power Company, which heretofore have been admitted to unlisted trading privileges on the applicant exchange.

The Commission having duly considered the matter, and having due regard for the public interest and the protection of investors;

It is ordered, Pursuant to sections 12 (f) and 23 (a) of the Securities Exchange Act of 1934 and Rule X-12F–2 (b) thereunder, that the Debenture Escrow Certificates issued pursuant to escrow agreement dated March 31, 1948 between Interstate Power Company and Chemical Bank & Trust Company are hereby determined to be substantially equivalent to the 6% Gold Debentures, due January 1, 1952, of Interstate Power Company, heretofore admitted to unlisted trading privileges on the applicant exchange.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48–9721; Filed, Nov. 5, 1948; 8:58 a. m.]

[File Nos. 59–11, 59–17, 54–25]

UNITED LIGHT & RAILWAYS CO. ET AL.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 2d day of November A. D. 1948.

In the matter of the United Light and Railways Company, American Light & Traction Company, et al., File Nos. 59–11, 59–17, and 54–25.

American Light & Traction Company ("American Light"), a registered holding company and a subsidiary of the United Light and Railways Company ("Railways"), also a registered holding company, having filed an application and amendments thereto pursuant to the Public Utility Holding Company Act of

1935 ("act") with respect to the following transactions:

American Light has entered into credit agreements with certain banks and insurance companies under which, prior to November 17, 1948, American Light proposes to issue and sell $15,000,000 aggregate principal amount of serial Collateral Trust Notes to certain banks and insurance companies and in the amounts shown below:

Name of purchaser	Principal amount of notes to be purchased
Central Hanover Bank & Trust Co	$1,500,000.00
Mellon National Bank & Trust Co	1,500,000.00
The National City Bank of New York	1,500,000.00
New England Mutual Life Insurance Co	2,500,000.00
Massachusetts Mutual Life Insurance Co	3,000,000.00
John Hancock Mutual Life Insurance Co	5,000,000.00
	15,000,000.00

The application states that the proceeds from the sale of said notes are to be used in accordance with the provisions of the section 11 (e) plan filed by American Light and its parent, Railways, approved by order of the Commission dated December 30, 1947, in connection with the offer to purchase at $33 per share, during a 30-day period following a date fixed by American Light, all shares of its outstanding preferred stock tendered pursuant to an offer to be made by American Light for that purpose.

Notice of said filing having been duly given in the form prescribed by Rule U-23 promulgated under the act and the Commission not having received a request for a hearing with respect to said application within the period specified in said notice or otherwise, and not having ordered a hearing thereon; and

The applicant having requested that the Commission enter an order herein approving the proposed transactions, that said order become effective forthwith, and contain appropriate recitations to the effect that the proposed issuance of Collateral Trust Notes is necessary or appropriate to effectuate the provisions of section 11 (b) of the act, and

The Commission finding with respect to said application that the requirements of the applicable provisions of the act and rules thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interests of investors and consumers that said application be granted and that the order granting the same contain the recitals requested and become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, and subject to the terms and provisions prescribed in Rule U-24, that said application be, and the same hereby is, granted, that the issuance of the Collateral Trust Notes is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935 and that this order become effective forthwith.

It is further ordered, That the jurisdiction reserved in the Commission's order of December 30, 1947 with respect to the accounting treatment of the proposed transactions be, and it hereby is, continued.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-9742; Filed, Nov. 5, 1948; 8:59 a. m.]

[File No. 68-105]

LONG ISLAND LIGHTING CO.

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 1st day of November 1948.

In the matter of J. Donald Halsted, E. M. Nichols and B. F. Grizzle, as a protective committee for the holders of the common stock of Long Island Lighting Company. File No. 68-105.

Notice is hereby given that J. Donald Halsted, E. M. Nichols and B. F. Grizzle, as a protective committee for the holders of the common stock of Long Island Lighting Company, have filed a post-effective amendment to a declaration pursuant to Rule U-62 promulgated under the Public Utility Holding Company Act of 1935 ("act").

All interested persons are referred to said post-effective amendment to the declaration which is on file in the offices of this Commission for a statement of the proposal contained therein which is summarized as follows:

As members of a protective committee for the holders of the common stock of Long Island Lighting Company, declarants were permitted to solicit authorizations from such holders in connection with certain proceedings relating to (a) an amended plan of consolidation and recapitalization jointly filed, pursuant to section 11 (e) of the act, by Long Island Lighting Company, a registered holding company, and two of its public-utility subsidiary companies, Queens Borough Gas and Electric Company and Nassau & Suffolk Lighting Company (designated as File No. 54-136), and (b) a proceeding instituted by the Commission pursuant to section 11 (b) (2) of the act directed to Long Island Lighting Company, Queens Borough Gas and Electric Company, Nassau & Suffolk Lighting Company, and Long Beach Gas Company, Inc. (designated as File No. 59-83), which proceedings were consolidated for hearing.

The post-effective amendment to the declaration states that declarants will request each holder of the common stock to remit to the committee as a voluntary contribution 5 cents per share as a "defense fund" to help defray the past and future expenditures of the committee. Such expenditures include proposed payments as retainers of $7,500 to Harold G. Aron and $7,500 to Warren & McGroddy, the committee's counsel, and the cost of soliciting proxies and calling and holding a special stockholders' meeting for the election of a board of directors if the Committee decides to attempt to have such a meeting held.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said post-effective amendment to the declaration, that said post-effective amendment shall not become effective except pursuant to further order of this Commission, and that record in the consolidated proceedings relating to the amended plan of consolidation and recapitalization filed pursuant to section 11 (e) of the act (File No. 54-136) and the proceeding instituted by the Commission pursuant to section 11 (b) (2) of the act (File No. 59-83) has a bearing on the matters and questions presented for consideration by the said post-effective amendment to the declaration:

It is hereby ordered, Pursuant to sections 11 (b) (2), 11 (e), 11 (g), 12 (e), and 18 of the act and the rules and regulations promulgated thereunder, that a hearing be held upon said matter on November 12, 1948 at 10:00 a. m., e. s. t., at the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. On such day the hearing room clerk will advise as to the room where such hearing will be held. Any person desiring to be heard or otherwise wishing to participate therein shall notify the Commission to that effect in the manner provided in Rule XVII of the Commission's rules of practice on or before November 10, 1948.

It is further ordered, That James G. Ewell, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearing in such matters. The officer so designated to preside at the hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act, and to a hearing officer under the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of the said post-effective amendment to the declaration, and that on the basis thereof the following matters and questions are presented for consideration without prejudice, however, to the presentation of additional matters and questions upon further examination:

(1) Whether the proposed solicitation material contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

(2) Whether the proposed solicitation of the common stockholders of Long Island of 5 cents per share of common stock is in the public interest and in the interest of investors and for proper purposes and whether the proposed solicitation and proposed expenditures are in circumvention of any of the provisions of the Act or any rule, regulation, or order promulgated thereunder.

(3) Whether the proposed solicitation is consistent with the applicable standards of the act and rules thereunder, and whether, if such solicitation be permitted, the interest of the public or of investors or consumers requires the impo-

sition of terms and conditions with respect thereto.

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That the record in the consolidated proceedings in File Nos. 54–136 and 59–83 may be received in evidence at said hearing.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48–9741; Filed, Nov. 5, 1948; 8:59 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12126]

CLAUS CHRISTIAN JESSEN

In re: Trust under will of Claus Christian Jessen, deceased. File No. D–28–10510–G–1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Emma Theodora Jessen, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the trust created under paragraph three of the will of Claus Christian Jessen, deceased, and presently being administered by the First National Bank of Chicago, Chicago, Illinois, as trustee,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 4, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48–9752; Filed, Nov. 5, 1948; 9:00 a. m.]

[Vesting Order 12217]

GEORG FRENZ

In re: Bonds owned by Georg Frenz. F–28–5435–A–1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Georg Frenz, whose last known address is Bochum in Westfalen, Diekemp Str. 40, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. Five (5) Kingdom of Hungary, 6% State Bonds of 30 Crowns face value each, bearing the numbers 037.818/22, presently in the custody of Continental Illinois National Bank and Trust Company of Chicago, 231 South La Salle Street, Chicago, Illinois, together with any and all rights thereunder and thereto,

b. Eight (8) Kingdom of Hungary, 6% State Bonds of 3 Crowns face value each, bearing the numbers 567.562 and 567.575/81, presently in the custody of Continental Illinois National Bank and Trust Company, of Chicago, 231 South La Salle Street, Chicago, Illinois, together with any and all rights thereunder and thereto, and

c. That certain debt or other obligation owing to Georg Frenz, by Continental Illinois National Bank and Trust Company of Chicago, 231 South La Salle Street, Chicago, Illinois, arising out of an Agency Account, entitled Georg Frenz, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 18, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48–9753; Filed, Nov. 5, 1948; 9:00 a. m.]

[Vesting Order 12222]

MARGARETHE KROPATSCHECK

In re: Bonds and bank account owned by Margarethe Kropatscheck. F–28–28109–A–1, F–28–28109–E–1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Margarethe Kropatscheck, whose last known address is Ilfeld, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

(a) Two (2) United States of Brazil 3¾% External Bonds of 1944, Series 11, of $500 and $1000 face value, bearing the numbers D–182 and M687, respectively, and presently in the custody of Credit Suisse New York Agency, 30 Pine Street, New York, New York, in an account entitled Credit Suisse, St. Gall, together with any and all rights thereunder and thereto,

(b) Two (2) United States of Brazil 3¾% External Bonds of 1944, Series 12, of $250 and $1000 face value, bearing the numbers A21 and M797, respectively, and presently in the custody of Credit Suisse New York Agency, 30 Pine Street, New York, New York, in an account entitled Credit Suisse, St. Gall, together with any and all rights thereunder and thereto,

(c) Two (2) Department of Cauca Valley 20 year 7½% Sinking Fund Gold Bonds of $500 and $1000 face value, bearing the numbers D92 and M531, respectively, and presently in the custody of Credit Suisse New York Agency, 30 Pine Street, New York, New York, in an account entitled Credit Suisse, St. Gall, together with any and all rights thereunder and thereto, and

(d) That certain debt or other obligation of Credit Suisse New York Agency, 30 Pine Street, New York, New York, in the amount of $1,205.66 as of February 1, 1947, presently on deposit in an account entitled "Credit Suisse, St. Gall, Identified: Swiss-German," and any and all accruals thereto and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on ac-

count of, or owing to, or which is evidence of ownership or control by, Margarethe Kropatscheck, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 18, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General.
Director, Office of Alien Property.

[F. R. Doc. 48-9754; Filed, Nov. 5, 1948; 9:00 a. m.]

[Vesting Order 12227]

ERWIN WULZ

In re: Securities owned by and debt owing to Erwin Wulz. F-28-24892-D-1; E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Erwin Wulz, whose last known address is Johannes Strasse 60, Stuttgart, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. Those certain debts or other obligations, matured or unmatured, evidenced by one (1) Ambassador East, Inc., 15-Year First Mortgage Income Bond of $500.00 face value, bearing the number D155, and registered in the name of Erwin Wulz, and any and all rights to demand, enforce and collect the aforesaid debts or other obligations, together with any and all rights in, to and under said bond,

b. All rights and interests in and under one (1) stock trust certificate for one (1) share of no par value common capital stock of Ambassador East, Inc., 1301 North State Street, Chicago 10, Illinois, a corporation organized under the laws of the State of Delaware, bearing the number 568 and registered in the name of Erwin Wulz,

c. Five-tenths (5/10ths) of one share of no par value preferred capital stock of Ambassador East, Inc., 1301 North State Street, Chicago 10, Illinois, a corporation organized under the laws of the State of Delaware, evidenced by a certificate numbered 229 and registered in the name of Erwin Wulz, together with all declared and unpaid dividends thereon, and

d. That certain debt or other obligation owing to Erwin Wulz, by The First National Bank of Chicago, 38 South Dearborn Street, Chicago 90, Illinois, arising out of a Blocked Funds Account, account number Tr. 21990, entitled Erwin Wulz, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 18, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9755; Filed, Nov. 5, 1948; 9:00 a. m.]

[Vesting Order 12247]

LENA ZIEGLER BACH

In re: Certificate of deposit owned by Lena Ziegler Bach, also known as Mrs. John Bach, also known as Lena Ziegler. F-28-28245—A-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lena Ziegler Bach, also known as Mrs. John Bach, also known as Lena Ziegler, whose last-known address is Wustenbrunnen Str. #3, Rehau 13a Bayern, United States Zone, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: One (1) certificate of deposit of the Chicago City Bank and Trust Company, said certificate numbered 13, of $500 face value, registered in the name of Lena Ziegler and presently in the custody of Chicago City Bank and Trust Company, 815 West 63rd Street, Chicago 21, Ilinois, and any and all rights thereunder and thereto, together with any and all rights of exchange thereof for a certificate of beneficial interest for five (5) shares in the aforesaid Chicago City Bank and Trust Company's Trust No. 2226, and any and all rights thereunder and thereto, including particularly any and all rights of liquidation of the aforesaid certificate of beneficial interest.

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 27, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 48-9757; Filed, Nov. 5, 1948; 9:01 a. m.]

[Vesting Order 12233]

ROHM & HAAS G. M. B. H.

In re: Patents owned by Rohm & Haas G. m. b. H.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Rohm & Haas G. m. b. H. is a corporation, partnership, association or other business organization organized under the laws of Germany, with its principal place of business in Darmstadt, Germany, and is a national of a foreign country (Germany);

2. That the property described as follows: All right, title and interest (including all accrued royalties and all damages and profits recoverable at law or in equity from any person, firm, corporation or government for past infringement thereof) in and to the United States Letters Patent identified in Exhibit A attached hereto and by reference made a part hereof,

is property of the aforesaid national of a foreign country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 26, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

EXHIBIT A

Patent No.	Date	Inventor	Title
1,829,208	10-27-31	Walter Bauer	Processes of producing acrylic acid esters.
1,864,884	6-28-32	do	Process of producing acrylic acid esters.
1,890,277	12-06-32	do	Process of producing acrylic acid esters.
1,911,219	5-30-33	Walter Bauer, Paul Weisert	Process for the preparation of acrylic acid.
1,951,782	3-20-34	Walter Bauer, Hellmuth Lauth.	Process for making esters of acrylic acid.
1,982,831	12-04-34	Otto Rohm, Walter Bauer	Insulated electrical conductor.
1,982,946	12-04-34	Walter Bauer	Adhesive.
2,007,645	7-09-34	Emil Geisel	Compound glass.
2,021,763	11-19-35	Walter Bauer	Manufacture of artificial products.
2,067,580	1-12-37	Otto Rohm	Method of polymerizing compounds.
2,073,619	3-16-37	Walter Bauer, Adolf Gerlach	Process of producing transformation products of acrylic acid or its derivatives.
2,078,881	4-27-37	Walter M. Munzinger	Process for coating rubber and product.
2,086,093	7-06-37	Hermann Plauson	Process for polymerizing acrylic acid esters and mixtures of acrylic esters with vinyl esters.
2,087,466	7-20-37	Walter Bauer, Hellmuth Lauth.	Processes of producing acrylic acid and its esters.
2,091,615	8-31-37	Otto Rohm, Walter Bauer	Process for the manufacture of polymerization products.
2,095,944	10-12-37	Walter Bauer, Adolf Gerlach	Laminated glass and process for preparing.
2,104,168	1-04-38	Otto Rohm, Walter Bauer	Artificial substance.
2,108,181	2-15-38	August Schummer, Ernst Trommsdorff.	Process for preparing anatomical casts of human and animal organs.
2,127,135	8-16-38	Hermann Plauson	Process for the polymerization of vinyl esters and their derivatives or homologues or mixtures of these substances.
2,129,478	9-06-38	Otto Rohm	Polymerization process.
2,132,671	10-11-38	Walter Bauer	Condensation products.
2,137,377	11-22-38	Walter Bauer, Paul Weisert	Laminated glass.
2,153,406	4-04-39	Walter Bauer	Process for the preparation of methacrylic acid.
2,154,639	4-18-39	Otto Rohm, Walter Bauer	Process for the manufacture of polymerization products.
2,160,054	5-30-39	Walter Bauer, Hellmuth Lauth.	Polymerization process.
2,171,727	9-05-39	Carl T. Kautter	Process for the preparation of B methyl acrolein.
2,171,765	9-05-39	Otto Rohm, Ernst Trommsdorff.	Process for the polymerization of methyl methacrylate.
2,171,795	9-05-39	Carl T. Kautter	Distillation of polymerisable materials.
2,193,742	3-12-40	Otto Rohm	Glass substitute and process or preparing.
2,200,709	5-14-40	Ernst Trommsdorff	Organogel.
2,205,355	6-18-40	Otto Grimm, Hans Rach	Treatment of leather.
2,209,246	7-23-40	Walter Bauer, Ernst Trommsdorff.	Process of accelerating polymerization.
2,210,320	8-06-40	Carl T. Kautter, Albert Robert Heinz Grafe.	Manufacture of methacrylonitrile.
2,220,033	10-29-40	Walter et al., Franz Esser	Interpolymer of acrylic nitrile methyl methacrylate and methacrylic amide.
2,250,485	7-29-41	Carl T. Kautter	Process for polymerizing acrylic and methacrylic acid esters.
2,250,958	7-29-41	Carl T. Kautter, Kurt Feuerstein.	Process of embedding color in polymeric materials.
2,263,385	11-18-41	Otto Grimm	Process for dyeing leather.
2,273,700	2-17-42	Kurt Feuerstein	Decorated foil and film.
2,285,579	6-09-42	Erich Groner	Emulsions.
2,315,675	4-06-43	Ernst Trommsdorff	Sizing of paper.
2,323,781	7-06-43	Franz Kohler	Preparation of allyl alcohol and its homologues.
2,324,935	7-20-43	Carl T. Kautter, Ernst Trommsdorff.	Process for polymerizing derivatives of methacrylic acid.
2,326,078	8-03-43	Ernst Trommsdorff, Gerhard Abel.	Process of polymerizing methacrylic acid.
2,328,900	9-07-43	Otto Grimm, Hans Rach	Process for dyeing fabrics.
2,328,901	9-07-43	Otto Grimm, Hans Rach	Nitrogenous condensation product.
2,363,286	11-21-44	Walter Bauer, Carl T. Kautter.	Vinyl esters of unsaturated acids.

[F. R. Doc. 48-9756; Filed, Nov. 5, 1948; 9:01 a. m.]

[Vesting Order 12255]

HANS HERZOG

In re: Bond owned by Hans Herzog. F-28-29194-D-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hans Herzog, whose last known address is 187 Fischbachstrasse, Feucht near Nuernberg, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation, matured or unmatured, evidenced by one (1) Cities Service Company Refunding 5% Gold Debenture of $1,000.00 face value, bearing number M14209, in bearer form and all rights to demand, enforce and collect the aforesaid debt or other obligation, together with any and all rights in, to and under said debenture,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 27, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 48-9758; Filed, Nov. 5, 1948; 9:01 a. m.]

[Vesting Order 98, Amdt.]

ROHM & HAAS G. M. B. H. & ROHM & HAAS CO.

In re: Interests of Rohm & Haas G. m. b. H. in an agreement with Rohm & Haas Company dated November 24, 1934 and January 30, 1935.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, Vesting Order 98, dated August 17, 1942, as affirmed by § 500.41, as amended, of the rules, Office

of Alien Property, Department of Justice, is hereby amended to read as follows:

1. It is hereby found that Rohm & Haas G. m. b. H. is a corporation, partnership, association or other business organization organized under the laws of Germany, with its principal place of business in Darmstadt, Germany, and is a national of a foreign country (Germany);

2. It is hereby found that the property described as follows: All interests and rights (including all royalties and other monies payable or held with respect to such interests and rights and all damages for breach of the agreement hereinafter described, together with the right to sue therefor) created in Rohm & Haas A. G. by virtue of an agreement dated November 24, 1934 and January 30, 1935 (including all modifications thereof and supplements thereto, including, but without limitation, a letter agreement dated July 5, 1939) by and between Rohm & Haas A. G. and Rohm & Haas Company, which agreement relates, among other things, to United States Letters Patent No. 2,285,579,

is property payable or held with respect to patents or rights related thereto in which interests are held by, and such property itself constitutes interests held therein by, the aforesaid national of a foreign country (Germany).

All determinations and all actions required by law, including appropriate consultation and certification, having been made and taken, and, it having been and being deemed necessary in the national interest,

There is hereby vested the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" as used herein and in said Vesting Order 98 shall have and had the meaning prescribed in section 10 of Executive Order 9095, as amended by Executive Order 9193.

Executed at Washington, D. C., on October 26, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 48-9761; Filed, Nov. 5, 1948; 9:01 a. m.]

[Vesting Order 2009, Amdt.]

TONY NESHOFF

In re: Estate of Tony Neshoff, deceased. File No. D-11-61; E. T. sec. 6079.

Vesting Order 2009 dated August 19, 1943, as amended, is hereby further amended as follows and not otherwise: By deleting the name "Teophil Ivanoff T. Neshoff" wherever it appears in said Vesting Order 2009, as amended, and substituting therefor the name "Nesho Todoroff Neshoff."

All other provisions of said Vesting Order Number 2009, as amended, and all action taken by or on behalf of the Alien Property Custodian or the Attorney General of the United States in reliance thereon, pursuant thereto and under authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on October 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9762; Filed, Nov. 5, 1948; 9:01 a. m.]

CARL LUENENSCHLOSS

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property and Location

Carl Luenenschloss, Elizabeth, N. J., 5862; The following securities in the name of Carl Luenenschloss held in Safekeeping Account No. 66-200045, Office of Alien Property, 120 Broadway, New York, New York.

1. Konversionskasse fur Deutsche Auslandsschulden 3% Bonds, Series C, Nos. 01557 to 01566 inclusive and Nos. 00222, 00411, 00495, 00857, 00858, 01001, 01002, 01003, 01159, 01160, 01161, 01453, 01520, 01809, 02336 together with attached coupons.

2. I. G. Farbenindustrie A. G. 6% Bonds of 1928, Nos. 056336, 060074, 065649, 098341, 098342, 056604, 000258, 000259, 028101, 028102, 028103, 028104, 028105, 028106, together with attached coupons.

3. 12 shares capital stock of Standard Oil Company (N. J.) Certificate No. 0698550 and C772993 registered in the name of Carl Luenenschloss.

4. Certificates for twenty preferred shares, 7% Series IV of Deutsche Reichsbahn-Gesellschaft, Certificates No. 0013475-6; 0013477-8; 0013479-80; 0013481-2; 0013483-4; 0013485-6; 0013487-8; 0013489-90; 0013491-2; 0013493-4.

Executed at Washington, D. C., on November 2, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9763; Filed, Nov. 5, 1948; 9:01 a. m.]

SIEGMUND CHAMBRE AND MAX CHAMBRE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property and Location

Siegmund Chambre, Los Angeles, California, 33766, Max Chambre, San Francisco, California, 6289; Two-thirds (⅔) of the all right, title, interest, and claim of any kind or character whatsoever, of Lina Chambre Meyer and Klara Chambre, and each of them, in and to the Trust Estate of Meier Katten, deceased, one-half (½) thereof to each claimant; $3,036.78 in the Treasury of the United States, one-half (½) thereof to each claimant.

Executed at Washington, D. C., on November 2, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9764; Filed, Nov. 5, 1948; 9:01 a. m.]